

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1477 Session of 2019

INTRODUCED BY DELOZIER, HARRIS, BOBACK, BOYLE, BULLOCK, BURGOS, CEPHAS, A. DAVIS, T. DAVIS, DELLOSO, DRISCOLL, EVERETT, FITZGERALD, FRANKEL, FREEMAN, GOODMAN, HANBIDGE, HELM, HILL-EVANS, KEEFER, KENYATTA, KINSEY, KOSIEROWSKI, MADDEN, McCLINTON, MULLINS, NEILSON, SANCHEZ, SCHLOSSBERG, SCHWEYER, SHUSTERMAN, WEBSTER, ZABEL, JONES, GAINEY, MARKOSEK AND ECKER, MAY 22, 2019

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVE, AS AMENDED, DECEMBER 9, 2019

AN ACT

1 ~~Amending Title 18 (Crimes and Offenses) of the Pennsylvania~~ <--
 2 ~~Consolidated Statutes, in criminal history record~~
 3 ~~information, further providing for use of records by~~
 4 ~~licensing agencies.~~
 5 AMENDING TITLES 18 (CRIMES AND OFFENSES) AND 63 (PROFESSIONS AND <--
 6 OCCUPATIONS (STATE LICENSED)) OF THE PENNSYLVANIA
 7 CONSOLIDATED STATUTES, IN CRIMINAL HISTORY RECORD
 8 INFORMATION, FURTHER PROVIDING FOR USE OF RECORDS BY
 9 LICENSING AGENCIES; PROVIDING FOR PRELIMINARY PROVISIONS AND
 10 FOR BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS;
 11 CONSOLIDATING THE PROVISIONS OF ACT 48 OF 1993; AND MAKING A
 12 RELATED REPEAL.
 13 The General Assembly of the Commonwealth of Pennsylvania
 14 hereby enacts as follows:
 15 Section 1. ~~Section 9124(a), (b) and (c) of Title 18 of the~~ <--
 16 ~~Pennsylvania Consolidated Statutes are amended and the section~~
 17 ~~is amended by adding subsections to read:~~
 18 ~~§ 9124. Use of records by licensing agencies.~~
 19 (a) ~~State agencies. [Except as provided by this chapter, a]~~

1 ~~A board, commission or department of the Commonwealth, when~~
2 ~~determining eligibility for licensing, certification,~~
3 ~~registration or permission to engage in a trade, profession or~~
4 ~~occupation, may consider convictions of the applicant of crimes~~
5 ~~[but the convictions] only in accordance with this chapter.~~
6 ~~Convictions shall not automatically preclude the issuance of a~~
7 ~~license, certificate, registration or permit.~~

8 (b) ~~Prohibited use of information. [The] Notwithstanding~~
9 ~~any other provision of law concerning licensing, certification,~~
10 ~~registration or permitting, the following information shall not~~
11 ~~be used in consideration of an application for a license,~~
12 ~~certificate, registration or permit:~~

13 (1) ~~Records of arrest if there is no conviction of a~~
14 ~~crime based on the arrest.~~

15 (2) ~~Convictions which have been annulled [or]L expunged~~
16 ~~or subject to limited access under sections 9122.1 (relating~~
17 ~~to petition for limited access) and 9122.2 (relating to clean~~
18 ~~slate limited access).~~

19 (3) ~~Convictions of a summary offense.~~

20 (4) ~~Convictions for which the individual has received a~~
21 ~~pardon from the Governor.~~

22 (5) ~~Convictions which do not [relate to the applicant's~~
23 ~~suitability for the license, certificate, registration or~~
24 ~~permit.] directly relate to the trade, occupation or~~
25 ~~profession for which the license, certificate, registration~~
26 ~~or permit is sought.~~

27 (6) ~~Adjudications of delinquency.~~

28 (c) ~~State action authorized. [Boards,] Notwithstanding any~~
29 ~~other provision of law concerning licensing, certification,~~
30 ~~registration or permitting, the boards, commissions or~~

1 ~~departments of the Commonwealth authorized to license, certify,~~
2 ~~register or permit the practice of trades, occupations or~~
3 ~~professions may refuse to grant or renew, or may suspend or~~
4 ~~revoke any license, certificate, registration or permit [for the~~
5 ~~following causes:~~

6 ~~(1) Where the applicant has been convicted of a felony.~~

7 ~~(2) Where the applicant has been convicted of a~~
8 ~~misdemeanor which relates to the trade, occupation or~~
9 ~~profession for which the license, certificate, registration~~
10 ~~or permit is sought.] based in whole or in part on a~~
11 ~~conviction of a crime if all of the following apply:~~

12 ~~(1) The applicant has been convicted of a felony or a~~
13 ~~misdemeanor which directly relates to the trade, occupation~~
14 ~~or profession for which the license, certificate,~~
15 ~~registration or permit is sought.~~

16 ~~(2) The board, commission or department has conducted an~~
17 ~~individualized assessment of the relation of the conviction~~
18 ~~to the applicant's overall suitability to engage in the~~
19 ~~trade, occupation or profession for which the license,~~
20 ~~certificate, registration or permit is sought. An~~
21 ~~individualized assessment conducted under this paragraph~~
22 ~~shall include a consideration of the particular facts or~~
23 ~~circumstances surrounding the offense or criminal conduct,~~
24 ~~the length of time since the offense or criminal conduct~~
25 ~~occurred and the grade and seriousness of the offense or~~
26 ~~criminal conduct.~~

27 ~~(c.1) Exception. A board, commission or department may not~~
28 ~~refuse to grant or renew and may not suspend or revoke any~~
29 ~~license, certificate, registration or permit under subsection~~
30 ~~(c) if the applicant can establish sufficient mitigation or~~

1 ~~rehabilitation and fitness to perform the duties of the trade,~~
2 ~~occupation or profession for which the license, certificate,~~
3 ~~registration or permit is sought. Where criminal conduct is~~
4 ~~directly related to the license, certificate, registration or~~
5 ~~permit being sought, the board, commission or department shall~~
6 ~~consider relevant proof of any factors that would rebut an~~
7 ~~adverse presumption or show rehabilitation, including:~~

8 ~~(1) Facts or circumstances regarding the offense or~~
9 ~~criminal conduct.~~

10 ~~(2) Number of offenses for which the applicant was~~
11 ~~convicted.~~

12 ~~(3) Increase in age and maturity of the applicant since~~
13 ~~the date of the conviction for the offense or release from a~~
14 ~~correctional institution.~~

15 ~~(4) The applicant's criminal history, or lack thereof,~~
16 ~~after the date of the offense or criminal conduct while~~
17 ~~engaged in the same or similar trade, occupation or~~
18 ~~profession for which the license, certificate, registration~~
19 ~~or permit is sought.~~

20 ~~(5) Length and consistency of employment history before~~
21 ~~and after the date of the offense or criminal conduct.~~

22 ~~(6) Participation in education or training activities.~~

23 ~~(7) Employment or character references and any other~~
24 ~~information regarding fitness for trade, occupation or~~
25 ~~profession for which the license, certificate, registration~~
26 ~~or permit is sought.~~

27 ~~(8) Whether the applicant is bonded under a Federal,~~
28 ~~State or local bonding program.~~

29 ~~(9) Any other factors to rebut an adverse presumption or~~
30 ~~present relevant individual circumstances to show~~

1 ~~rehabilitation.~~

2 * * *

3 ~~(e) Petitions. An individual with a criminal history record~~
4 ~~may petition a board, commission or department at any time,~~
5 ~~including before obtaining education or training, for a~~
6 ~~preliminary decision on whether the individual's criminal~~
7 ~~history record might disqualify the individual from receiving a~~
8 ~~license, certificate, registration or permit.~~

9 ~~(f) Limitations. A board, commission or department may only~~
10 ~~consider criminal history records and determinations of whether~~
11 ~~to grant, deny, suspend, revoke or renew a license, certificate,~~
12 ~~registration or permit on the grounds of good moral character, a~~
13 ~~crime of moral turpitude, an unethical or dishonest practice or~~
14 ~~conduct or other categorical consideration in accordance with~~
15 ~~the limitations specified under this section. The provisions of~~
16 ~~this section shall supersede any law or regulation of this~~
17 ~~Commonwealth to the contrary.~~

18 ~~(g) Regulations. A board, commission or department shall~~
19 ~~promulgate regulations regarding the consideration of criminal~~
20 ~~history records as part of the determination on whether or not~~
21 ~~to grant, deny, suspend, revoke or renew a license, certificate,~~
22 ~~registration or permit.~~

23 ~~Section 2. This act shall take effect in 60 days.~~

24 SECTION 1. SECTION 9124(A) AND (B) (2) OF TITLE 18 OF THE <--
25 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED AND THE SECTION
26 IS AMENDED BY ADDING A SUBSECTION TO READ:

27 § 9124. USE OF RECORDS BY LICENSING AGENCIES.

28 (A) STATE AGENCIES.--EXCEPT AS PROVIDED BY THIS CHAPTER AND
29 SPECIFICALLY SUBSECTION (A.1), A BOARD, COMMISSION OR DEPARTMENT
30 OF THE COMMONWEALTH, WHEN DETERMINING ELIGIBILITY FOR LICENSING,

1 CERTIFICATION, REGISTRATION OR PERMISSION TO ENGAGE IN A TRADE,
2 PROFESSION OR OCCUPATION, MAY CONSIDER CONVICTIONS OF THE
3 APPLICANT OF CRIMES BUT THE CONVICTIONS SHALL NOT PRECLUDE THE
4 ISSUANCE OF A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT.

5 (A.1) APPLICATION OF OTHER LAW.--THE FOLLOWING PROVISIONS
6 SHALL APPLY TO A LICENSING BOARD OR LICENSING COMMISSION UNDER
7 THE BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS IN THE
8 DEPARTMENT OF STATE WITH RESPECT TO REFUSING TO ISSUE OR RENEW,
9 SUSPENDING, REVOKING OR LIMITING A LICENSE, CERTIFICATE,
10 REGISTRATION OR PERMIT:

11 (1) 63 PA.C.S. § 3112 (RELATING TO RESTRICTED LICENSES
12 FOR BARBERS AND COSMETOLOGISTS).

13 (2) 63 PA.C.S. § 3112.1 (RELATING TO RESTRICTED LICENSES
14 FOR OTHER OCCUPATIONS).

15 (3) 63 PA.C.S. § 3113 (RELATING TO SUPPLEMENTARY
16 PROVISIONS REGARDING CRIMINAL CONVICTIONS).

17 (4) 63 PA.C.S. § 3114 (RELATING TO JUVENILE
18 ADJUDICATIONS).

19 (5) 63 PA.C.S. § 3115 (RELATING TO PRELIMINARY
20 DETERMINATIONS BY LICENSING BOARDS AND LICENSING
21 COMMISSIONS).

22 (6) 63 PA.C.S. § 3116 (RELATING TO BEST PRACTICES
23 GUIDE).

24 (7) 63 PA.C.S. § 3117 (RELATING TO LIST OF CRIMINAL
25 OFFENSES).

26 (B) PROHIBITED USE OF INFORMATION.--THE FOLLOWING
27 INFORMATION SHALL NOT BE USED IN CONSIDERATION OF AN APPLICATION
28 FOR A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT:

29 * * *

30 (2) CONVICTIONS WHICH HAVE BEEN ANNULLED [OR EXPUNGED.] ,

1 EXPUNGED OR SUBJECT TO LIMITED ACCESS UNDER SECTIONS 9122.1
2 (RELATING TO PETITION FOR LIMITED ACCESS) AND 9122.2
3 (RELATING TO CLEAN SLATE LIMITED ACCESS).

4 * * *

5 SECTION 2. TITLE 63 IS AMENDED BY ADDING PARTS TO READ:

6 PART I

7 PRELIMINARY PROVISIONS

8 (RESERVED)

9 PART II

10 BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

11 CHAPTER

12 31. POWERS AND DUTIES

13 CHAPTER 31

14 POWERS AND DUTIES

15 SEC.

16 3101. SCOPE OF CHAPTER.

17 3102. DEFINITIONS.

18 3103. INVESTIGATORY SUBPOENA POWER.

19 3104. REPORTING OF SANCTIONS AND CRIMINAL PROCEEDINGS.

20 3105. HEARING EXAMINERS.

21 3106. SUSPENSION.

22 3107. ADDITIONAL POWERS FOR COMMISSIONER.

23 3108. CIVIL PENALTIES.

24 3109. CONFIDENTIALITY OF RECORDS OF LICENSURE BOARDS.

25 3110. REPORTS.

26 3111. LICENSURE BY ENDORSEMENT.

27 3112. RESTRICTED LICENSES FOR BARBERS AND COSMETOLOGISTS.

28 3112.1. RESTRICTED LICENSES FOR OTHER OCCUPATIONS.

29 3113. SUPPLEMENTARY PROVISIONS REGARDING CRIMINAL CONVICTIONS.

30 3114. JUVENILE ADJUDICATIONS.

1 3115. PRELIMINARY DETERMINATIONS BY LICENSING BOARDS AND
2 LICENSING COMMISSIONS.

3 3116. BEST PRACTICES GUIDE.

4 3117. LIST OF CRIMINAL OFFENSES.

5 3118. REPORT TO GENERAL ASSEMBLY.

6 § 3101. SCOPE OF CHAPTER.

7 THIS CHAPTER RELATES TO THE POWERS AND DUTIES OF THE GENERAL
8 COUNSEL, THE BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS AND
9 LICENSING BOARDS AND LICENSING COMMISSIONS.

10 § 3102. DEFINITIONS.

11 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
12 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
13 CONTEXT CLEARLY INDICATES OTHERWISE:

14 "BUREAU." THE BUREAU OF PROFESSIONAL AND OCCUPATIONAL
15 AFFAIRS IN THE DEPARTMENT OF STATE.

16 "COMMISSIONER." THE COMMISSIONER OF THE BUREAU.

17 "CRIMINAL CONVICTION." INCLUDES A FINDING OF GUILTY, A PLEA
18 OF GUILTY OR A PLEA OF NOLO CONTENDERE WITH RESPECT TO A
19 CRIMINAL OFFENSE OF THIS COMMONWEALTH, OR AN EQUIVALENT CRIME
20 UNDER THE LAWS OF THIS COMMONWEALTH IN EFFECT AT THE TIME OF THE
21 COMMISSION OF THE CRIMINAL OFFENSE OR AN EQUIVALENT CRIME IN
22 ANOTHER JURISDICTION.

23 "DIRECTLY RELATES." THE NATURE OF THE CRIMINAL CONDUCT FOR
24 WHICH THE PERSON WAS CONVICTED HAS A DIRECT BEARING ON THE
25 FITNESS OR ABILITY TO PERFORM ONE OR MORE OF THE DUTIES OR
26 RESPONSIBILITIES NECESSARILY RELATED TO THE PROFESSION, TRADE OR
27 OCCUPATION FOR WHICH THE INDIVIDUAL SEEKS LICENSURE.

28 "DISCIPLINARY MATTER." A MATTER SUBJECT TO A LICENSING
29 BOARD'S OR LICENSING COMMISSION'S JURISDICTION IN WHICH THE
30 LICENSING BOARD OR LICENSING COMMISSION HAS THE AUTHORITY TO

1 REFUSE, SUSPEND, REVOKE OR LIMIT A LICENSE, REGISTRATION,
2 CERTIFICATE OR PERMIT OR TO IMPOSE A CIVIL PENALTY OR OTHER
3 DISCIPLINE UNDER AN ACT.

4 "EXPUNGE" OR "EXPUNGEMENT." REMOVAL OF A DISCIPLINARY
5 RECORD, ACCOMPLISHED BY:

6 (1) PERMANENTLY SEALING THE AFFECTED RECORD FROM PUBLIC
7 ACCESS;

8 (2) DEEMING THE PROCEEDINGS TO WHICH THE AFFECTED RECORD
9 REFERS AS NOT HAVING OCCURRED; AND

10 (3) EXCEPT WITH RESPECT TO ANY SUBSEQUENT APPLICATION
11 FOR EXPUNGEMENT, AFFORDING THE AFFECTED PARTY THE RIGHT TO
12 REPRESENT THAT NO RECORD EXISTS REGARDING THE SUBJECT MATTER
13 OF THE AFFECTED RECORD.

14 "LICENSEE." A PERSON HOLDING A LICENSE, REGISTRATION,
15 CERTIFICATE OR PERMIT WITH A LICENSING BOARD OR LICENSING
16 COMMISSION UNDER THE BUREAU.

17 "LICENSING BOARD." A DEPARTMENTAL OR ADMINISTRATIVE BOARD
18 UNDER THE BUREAU.

19 "LICENSING COMMISSION." A DEPARTMENTAL OR ADMINISTRATIVE
20 COMMISSION UNDER THE BUREAU.

21 "RIGHT-TO-KNOW LAW." THE ACT OF FEBRUARY 14, 2008 (P.L.6,
22 NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW.

23 § 3103. INVESTIGATORY SUBPOENA POWER.

24 THE GENERAL COUNSEL OR A DESIGNEE OF THE GENERAL COUNSEL
25 SHALL HAVE THE POWER AND DUTY TO ISSUE SUBPOENAS UPON
26 APPLICATION OF AN ATTORNEY RESPONSIBLE FOR REPRESENTING THE
27 COMMONWEALTH IN DISCIPLINARY MATTERS BEFORE A LICENSING BOARD OR
28 LICENSING COMMISSION FOR THE PURPOSE OF INVESTIGATING ALLEGED
29 VIOLATIONS OF THE DISCIPLINARY PROVISIONS ADMINISTERED BY A
30 LICENSING BOARD OR LICENSING COMMISSION. THE FOLLOWING APPLY:

1 (1) IF DISCLOSURE IS SUBJECT TO A PRIVILEGE PROVIDED BY
2 LAW, PATIENT OR CLIENT RECORDS MAY NOT BE SUBPOENAED WITHOUT
3 THE CONSENT OF THE PATIENT OR CLIENT OR WITHOUT ORDER OF A
4 COURT OF COMPETENT JURISDICTION SHOWING THAT THE RECORDS ARE
5 REASONABLY NECESSARY FOR THE CONDUCT OF THE INVESTIGATION.

6 (2) THE COURT MAY IMPOSE SUCH LIMITATION ON THE SCOPE OF
7 THE SUBPOENA AS MAY BE NECESSARY TO PREVENT UNNECESSARY
8 INTRUSION INTO PATIENT OR CLIENT CONFIDENTIAL INFORMATION.

9 (3) THE ATTORNEY RESPONSIBLE FOR REPRESENTING THE
10 COMMONWEALTH IN DISCIPLINARY MATTERS BEFORE A LICENSING BOARD
11 OR LICENSING COMMISSION IS AUTHORIZED TO APPLY TO
12 COMMONWEALTH COURT TO ENFORCE THE SUBPOENAS.

13 (4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO EXCUSE
14 A PERSON FROM PRODUCING DOCUMENTS AND RECORDS AS REQUESTED BY
15 A LICENSING BOARD OR LICENSING COMMISSION UNDER ANY OTHER
16 PROVISION OF LAW.

17 § 3104. REPORTING OF SANCTIONS AND CRIMINAL PROCEEDINGS.

18 (A) DUTY.--A LICENSEE, AS A CONDITION OF LICENSE,
19 CERTIFICATION, REGISTRATION OR HOLDING A PERMIT, SHALL PROVIDE
20 WRITTEN NOTICE OF THE FOLLOWING TO THE APPROPRIATE LICENSING
21 BOARD OR LICENSING COMMISSION WITHIN 30 DAYS:

22 (1) A DISCIPLINARY ACTION TAKEN AGAINST THE LICENSEE BY
23 A LICENSING AGENCY OF ANOTHER JURISDICTION.

24 (2) A FINDING OR VERDICT OF GUILT, AN ADMISSION OF
25 GUILT, A PLEA OF NOLO CONTENDERE, PROBATION WITHOUT VERDICT,
26 A DISPOSITION IN LIEU OF TRIAL OR AN ACCELERATED
27 REHABILITATIVE DISPOSITION OF A FELONY OR MISDEMEANOR
28 OFFENSE.

29 (B) SANCTIONS.--A LICENSING BOARD OR LICENSING COMMISSION
30 MAY TAKE DISCIPLINARY ACTION AGAINST A LICENSEE WHO VIOLATES

1 THIS SECTION.

2 § 3105. HEARING EXAMINERS.

3 (A) APPOINTMENT.--

4 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
5 COMMISSIONER, AFTER CONSULTATION WITH THE LICENSING BOARDS
6 AND LICENSING COMMISSIONS, SHALL APPOINT HEARING EXAMINERS AS
7 MAY BE NECESSARY TO CONDUCT HEARINGS IN DISCIPLINARY MATTERS
8 BEFORE A LICENSING BOARD OR LICENSING COMMISSION.

9 (2) EACH LICENSING BOARD AND LICENSING COMMISSION SHALL
10 HAVE THE POWER TO DECIDE IF A SPECIFIC DISCIPLINARY MATTER OR
11 TYPE OF DISCIPLINARY MATTER IS TO BE HEARD BY THE LICENSING
12 BOARD OR LICENSING COMMISSION ITSELF OR BY A HEARING EXAMINER
13 APPOINTED UNDER THIS SUBSECTION.

14 (B) REGULATIONS.--THE COMMISSIONER, AFTER CONSULTATION WITH
15 THE LICENSING BOARDS AND COMMISSIONS, SHALL HAVE THE POWER TO
16 PROMULGATE REGULATIONS SPECIFYING THE PROCEDURAL RULES TO BE
17 FOLLOWED BY HEARING EXAMINERS IN THE CONDUCT OF HEARINGS IN
18 DISCIPLINARY MATTERS BEFORE A LICENSING BOARD OR LICENSING
19 COMMISSION. ALL PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE
20 WITH THE PROVISIONS OF 2 PA.C.S. (RELATING TO ADMINISTRATIVE LAW
21 AND PROCEDURE).

22 (C) POWERS.--A HEARING EXAMINER SHALL HAVE THE POWER TO:

23 (1) CONDUCT HEARINGS IN ACCORDANCE WITH APPLICABLE
24 STATUTES, RULES AND REGULATIONS.

25 (2) ISSUE SUBPOENAS REQUIRING THE ATTENDANCE AND
26 TESTIMONY OF INDIVIDUALS OR THE PRODUCTION OF PERTINENT
27 RECORDS OR OTHER PAPERS BY PERSONS WHO, IN THE OPINION OF THE
28 HEARING EXAMINER, HAVE INFORMATION RELEVANT TO ANY MATTERS
29 PENDING BEFORE THE HEARING EXAMINER AND TO ISSUE DECISIONS.

30 (D) TIME PERIODS.--

1 (1) IN ALL DISCIPLINARY MATTERS BEFORE A LICENSING BOARD
2 OR LICENSING COMMISSION, HEARINGS SHALL COMMENCE WITHIN 90
3 DAYS AFTER THE DATE ON WHICH AN ANSWER IS FILED.

4 (2) A CONTINUANCE GRANTED PRIOR TO THE COMMENCEMENT OF
5 THE HEARING SHALL TOLL THE 90-DAY REQUIREMENT BY THE PERIOD
6 OF THE CONTINUANCE.

7 (3) A DECISION SHALL BE RENDERED WITHIN 180 DAYS AFTER
8 THE RECORD IS CLOSED.

9 (4) THE LICENSING BOARD OR LICENSING COMMISSION SHALL
10 RENDER A FINAL ADJUDICATION OR DECISION ON ANY EXCEPTIONS TO
11 THE DECISION OF A HEARING EXAMINER OR ANY APPLICATIONS FOR
12 REVIEW WITHIN 90 DAYS OF THE FILING OF THE EXCEPTIONS OR
13 APPLICATIONS, PROVIDED THAT A BOARD OR COMMISSION MAY
14 DELEGATE TO A HEARING EXAMINER THE AUTHORITY TO RENDER A
15 FINAL ADJUDICATION OR DECISION IN SUCH CASES AS DEEMED
16 APPROPRIATE.

17 § 3106. SUSPENSION.

18 (A) TEMPORARY SUSPENSION.--A LICENSING BOARD OR LICENSING
19 COMMISSION MAY TEMPORARILY SUSPEND A LICENSE, CERTIFICATE,
20 REGISTRATION OR PERMIT UNDER CIRCUMSTANCES AS DETERMINED BY THE
21 LICENSING BOARD OR LICENSING COMMISSION TO BE AN IMMEDIATE AND
22 CLEAR DANGER TO PUBLIC HEALTH AND SAFETY. THE FOLLOWING APPLY:

23 (1) THE LICENSING BOARD OR COMMISSION SHALL ISSUE AN
24 ORDER TO THAT EFFECT WITHOUT A HEARING, BUT UPON DUE NOTICE,
25 TO THE LICENSEE CONCERNED AT THE LICENSEE'S LAST KNOWN
26 ADDRESS, WHICH SHALL INCLUDE A WRITTEN STATEMENT OF ALL
27 ALLEGATIONS AGAINST THE LICENSEE.

28 (2) AFTER ISSUING THE ORDER UNDER PARAGRAPH (1), THE
29 LICENSING BOARD OR LICENSING COMMISSION SHALL COMMENCE FORMAL
30 ACTION TO SUSPEND, REVOKE OR RESTRICT THE LICENSE,

1 CERTIFICATE, REGISTRATION OR PERMIT OF THE PERSON CONCERNED
2 AS OTHERWISE PROVIDED FOR BY LAW.

3 (3) ALL ACTIONS SHALL BE TAKEN PROMPTLY AND WITHOUT
4 DELAY.

5 (B) HEARING.--WITHIN 30 DAYS FOLLOWING THE ISSUANCE OF AN
6 ORDER OF TEMPORARY SUSPENSION, THE LICENSING BOARD OR LICENSING
7 COMMISSION SHALL CONDUCT OR CAUSE TO BE CONDUCTED A PRELIMINARY
8 HEARING TO DETERMINE WHETHER THERE IS A PRIMA FACIE CASE
9 SUPPORTING THE SUSPENSION. THE FOLLOWING APPLY:

10 (1) THE LICENSEE WHOSE LICENSE, CERTIFICATE,
11 REGISTRATION OR PERMIT HAS BEEN TEMPORARILY SUSPENDED MAY:

12 (I) BE PRESENT AT THE PRELIMINARY HEARING;

13 (II) BE REPRESENTED BY COUNSEL;

14 (III) CROSS-EXAMINE WITNESSES;

15 (IV) INSPECT PHYSICAL EVIDENCE;

16 (V) CALL WITNESSES;

17 (VI) OFFER EVIDENCE AND TESTIMONY; AND

18 (VII) MAKE A RECORD OF THE PROCEEDINGS.

19 (2) IF IT IS DETERMINED THAT THERE IS NOT A PRIMA FACIE
20 CASE, THE SUSPENDED LICENSE, CERTIFICATE, REGISTRATION OR
21 PERMIT SHALL BE IMMEDIATELY RESTORED.

22 (3) THE TEMPORARY SUSPENSION SHALL REMAIN IN EFFECT
23 UNTIL VACATED BY THE LICENSING BOARD OR LICENSING COMMISSION,
24 BUT IN NO EVENT LONGER THAN 180 DAYS.

25 (C) RESTORATION.--RESTORATION OF A LICENSE, CERTIFICATE,
26 REGISTRATION OR PERMIT SHALL BE MADE AS PROVIDED BY LAW IN THE
27 CASE OF REVOCATION OR SUSPENSION OF THE LICENSE, CERTIFICATE,
28 REGISTRATION OR PERMIT.

29 § 3107. ADDITIONAL POWERS FOR COMMISSIONER.

30 (A) MEMBERSHIP ON BOARDS AND COMMISSIONS.--IN ADDITION TO

1 THE POWERS AND DUTIES IMPOSED UNDER LAW, THE COMMISSIONER OR A
2 DESIGNEE OF THE COMMISSIONER SHALL BE A MEMBER OF EACH OF THE
3 LICENSING BOARDS AND LICENSING COMMISSIONS EXCEPT THE STATE
4 BOARD OF CERTIFIED REAL ESTATE APPRAISERS AND THE NAVIGATION
5 COMMISSION FOR THE DELAWARE RIVER AND ITS NAVIGABLE TRIBUTARIES.

6 (B) DESIGNEE OF SECRETARY OF THE COMMONWEALTH.--THE
7 COMMISSIONER OR A DESIGNEE OF THE COMMISSIONER MAY SERVE AS THE
8 DESIGNEE OF THE SECRETARY OF THE COMMONWEALTH ON THE NAVIGATION
9 COMMISSION FOR THE DELAWARE RIVER AND ITS NAVIGABLE TRIBUTARIES.

10 § 3108. CIVIL PENALTIES.

11 (A) AUTHORIZATION.--

12 (1) THE COMMISSIONER, AFTER CONSULTATION WITH THE
13 LICENSING BOARDS AND LICENSING COMMISSIONS, SHALL HAVE THE
14 POWER TO ADOPT A SCHEDULE OF CIVIL PENALTIES FOR OPERATING
15 WITHOUT A CURRENT, REGISTERED, UNSUSPENDED AND UNREVOKED
16 LICENSE, REGISTRATION, CERTIFICATE OR PERMIT AND FOR
17 VIOLATING A PROVISION OF THE LICENSING BOARD'S OR LICENSING
18 COMMISSION'S RESPECTIVE ACTS OR REGULATIONS RELATING TO THE
19 CONDUCT OR OPERATION OF A BUSINESS OR FACILITY LICENSED BY
20 THE LICENSING BOARDS AND LICENSING COMMISSIONS. THE FOLLOWING
21 APPLY:

22 (I) THE SCHEDULE OF PENALTIES SHALL NOT BE
23 APPLICABLE TO DISCIPLINARY MATTERS UNDER THE JURISDICTION
24 OF A LICENSING BOARD OR LICENSING COMMISSION UNLESS THAT
25 LICENSING BOARD OR LICENSING COMMISSION HAS APPROVED THE
26 SCHEDULE.

27 (II) THE COMMISSION SHALL TRANSMIT NOTICE OF THE
28 ADOPTION OF THE SCHEDULE OF PENALTIES, GUIDELINES FOR THE
29 IMPOSITION OF THE SCHEDULE OF PENALTIES AND PROCEDURES
30 FOR APPEAL TO THE LEGISLATIVE REFERENCE BUREAU FOR

1 PUBLICATION IN THE PENNSYLVANIA BULLETIN. THE
2 COMMISSIONER SHALL, WITHIN TWO YEARS OF THE PUBLICATION
3 OF THE NOTICE, PROMULGATE A REGULATION SPECIFYING THE
4 SCHEDULE OF PENALTIES, GUIDELINES AND PROCEDURES.

5 (III) A PENALTY SHALL NOT EXCEED THE SUM OF \$1,000
6 PER VIOLATION.

7 (IV) DULY AUTHORIZED AGENTS OF THE BUREAU SHALL HAVE
8 THE POWER AND AUTHORITY TO ISSUE CITATIONS AND IMPOSE
9 PENALTIES FOR VIOLATIONS.

10 (V) A PENALTY IMPOSED MAY BE APPEALED TO A HEARING
11 EXAMINER OR THE LICENSING BOARD OR LICENSING COMMISSION
12 PURSUANT TO THE REGULATIONS PROMULGATED UNDER SECTION
13 3105(B) (RELATING TO HEARING EXAMINERS).

14 (VI) IF THE APPEAL IS INITIALLY TO A HEARING
15 EXAMINER, THE RELEVANT LICENSING BOARD OR LICENSING
16 COMMISSION SHALL RENDER A DECISION ON ANY EXCEPTIONS TO
17 THE DECISION OF THE HEARING EXAMINER OR ON ANY
18 APPLICATIONS FOR REVIEW IN ACCORDANCE WITH SECTION
19 3105(D).

20 (VII) ALL PROCEEDINGS SHALL BE CONDUCTED IN
21 ACCORDANCE WITH THE PROVISIONS OF 2 PA.C.S. (RELATING TO
22 ADMINISTRATIVE LAW AND PROCEDURE).

23 (2) THE COMMISSIONER SHALL EXPUNGE THE DISCIPLINARY
24 RECORD OF A LICENSEE, REGISTRANT, CERTIFICATE HOLDER OR
25 PERMIT HOLDER IF THE IMPOSITION OF DISCIPLINE WAS FOR A
26 VIOLATION INVOLVING FAILURE TO COMPLETE CONTINUING EDUCATION
27 REQUIREMENTS OR PRACTICING FOR SIX MONTHS OR LESS ON A LAPSED
28 LICENSE, REGISTRATION, CERTIFICATE OR PERMIT, SUBJECT TO THE
29 FOLLOWING:

30 (I) THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER OR

1 PERMIT HOLDER MUST MAKE WRITTEN APPLICATION TO THE
2 COMMISSIONER FOR EXPUNGEMENT NOT EARLIER THAN FOUR YEARS
3 FROM THE FINAL DISPOSITION OF THE DISCIPLINARY RECORD.

4 (II) THE DISCIPLINARY RECORD MUST BE THE ONLY
5 DISCIPLINARY RECORD THAT THE LICENSEE, REGISTRANT,
6 CERTIFICATE HOLDER OR PERMIT HOLDER HAS WITH EITHER THE
7 COMMISSIONER OR A LICENSING BOARD OR LICENSING COMMISSION
8 UNDER THE COMMISSIONER'S JURISDICTION.

9 (III) THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER
10 OR PERMIT HOLDER MUST NOT BE THE SUBJECT OF AN ACTIVE
11 INVESTIGATION RELATED TO PROFESSIONAL OR OCCUPATIONAL
12 CONDUCT.

13 (IV) THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER OR
14 PERMIT HOLDER MUST NOT BE IN A CURRENT DISCIPLINARY
15 STATUS, AND ANY FEES OR FINES ASSESSED MUST BE PAID IN
16 FULL.

17 (V) THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER OR
18 PERMIT HOLDER MUST NOT HAVE HAD A DISCIPLINARY RECORD
19 PREVIOUSLY EXPUNGED BY THE COMMISSIONER.

20 (VI) DISCIPLINARY RECORDS INVOLVING IMPOSITION OF
21 DISCIPLINE FOR VIOLATIONS OTHER THAN THOSE IDENTIFIED IN
22 THIS PARAGRAPH SHALL NOT BE ELIGIBLE FOR EXPUNGEMENT.

23 (VII) THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER
24 OR PERMIT HOLDER SHALL PAY ALL COSTS ASSOCIATED WITH THE
25 EXPUNGEMENT AS ESTABLISHED BY THE COMMISSIONER BY
26 REGULATION.

27 (3) NOTHING IN THIS SUBSECTION SHALL PROHIBIT A
28 LICENSING BOARD OR LICENSING COMMISSION FROM USING PREVIOUS
29 DISCIPLINE FOR ANY REGULATORY PURPOSE OR FROM RELEASING
30 RECORDS OF PREVIOUS DISCIPLINE UPON REQUEST FROM LAW

1 ENFORCEMENT OR OTHER GOVERNMENTAL BODY AS PERMITTED BY LAW.

2 (B) ADDITIONAL POWERS.--IN ADDITION TO THE DISCIPLINARY
3 POWERS AND DUTIES OF THE LICENSING BOARDS AND LICENSING
4 COMMISSIONS WITHIN THE BUREAU UNDER THEIR RESPECTIVE PRACTICE
5 ACTS, LICENSING BOARDS AND LICENSING COMMISSIONS SHALL HAVE THE
6 POWER, RESPECTIVELY:

7 (1) TO IMPOSE DISCIPLINE, INCLUDING, BUT NOT LIMITED TO,
8 A CIVIL PENALTY OF UP TO \$10,000 PER VIOLATION ON A LICENSEE
9 OR UNLICENSED PERSON WHO VIOLATES A LAWFUL DISCIPLINARY ORDER
10 OF THE LICENSING BOARD.

11 (2) TO IMPOSE DISCIPLINE, INCLUDING, BUT NOT LIMITED TO,
12 A CIVIL PENALTY OF UP TO \$10,000 PER VIOLATION ON A LICENSEE
13 OR UNLICENSED PERSON WHO AIDS AND ABETS THE UNLICENSED
14 PRACTICE OF A PROFESSION, OCCUPATION OR BUSINESS.

15 (3) TO LEVY A CIVIL PENALTY OF NOT MORE THAN \$10,000 PER
16 VIOLATION ON A CORPORATION, PARTNERSHIP, INSTITUTION,
17 ASSOCIATION OR SOLE PROPRIETORSHIP WHICH AIDS AND ABETS AN
18 INDIVIDUAL IN THE UNLICENSED PRACTICE OF A PROFESSION. THIS
19 PENALTY SHALL NOT, HOWEVER, BE LEVIED AGAINST A PERSON SOLELY
20 AS A CONSEQUENCE OF THAT PERSON BEING A PATIENT OR CLIENT OF
21 THE UNLICENSED INDIVIDUAL.

22 (4) TO LEVY A CIVIL PENALTY OF NOT MORE THAN \$10,000 PER
23 VIOLATION ON A LICENSEE OR UNLICENSED PERSON WHO VIOLATES A
24 PROVISION OF THE APPLICABLE LICENSING ACT OR LICENSING BOARD
25 REGULATION.

26 (5) TO ASSESS AGAINST THE RESPONDENT DETERMINED TO BE IN
27 VIOLATION OF THE DISCIPLINARY PROVISIONS ADMINISTERED BY A
28 LICENSING BOARD OR LICENSING COMMISSION IN A DISCIPLINARY
29 PROCEEDING PENDING BEFORE THE LICENSING BOARD OR LICENSING
30 COMMISSION FOR FINAL DETERMINATION, AS PART OF THE SANCTION,

1 THE COSTS OF INVESTIGATION UNDERLYING THAT DISCIPLINARY
2 ACTION. THE COST OF INVESTIGATION SHALL NOT INCLUDE THOSE
3 COSTS INCURRED BY THE LICENSING BOARD OR LICENSING COMMISSION
4 AFTER THE FILING OF FORMAL ACTIONS OR DISCIPLINARY CHARGES
5 AGAINST THE RESPONDENT.

6 (6) TO COLLECT ALL FEES, COSTS, FINES AND PENALTIES
7 ASSESSED AS A RESULT OF A DISCIPLINARY PROCEEDING BEFORE A
8 LICENSING BOARD OR LICENSING COMMISSION.

9 (7) TO DENY, SUSPEND OR REVOKE A LICENSE, REGISTRATION,
10 CERTIFICATION OR PERMIT FOR FAILURE TO PAY ANY PENALTY, FEE,
11 INTEREST OR COST ASSESSED AS A RESULT OF A DISCIPLINARY
12 PROCEEDING BEFORE A LICENSING BOARD OR LICENSING COMMISSION.

13 (C) RESTRICTIONS.--

14 (1) DECISIONS RENDERED BY A LICENSING BOARD OR LICENSING
15 COMMISSION ON ANY EXCEPTIONS TO THE DECISION OF A HEARING
16 EXAMINER OR ON AN APPLICATION FOR REVIEW IN ACCORDANCE WITH
17 SECTION 3105(D) TO IMPOSE A CIVIL PENALTY UNDER THIS SECTION
18 SHALL REQUIRE THE SAME NUMBER OF VOTES REQUIRED FOR THE
19 LICENSING BOARD OR LICENSING COMMISSION TO IMPOSE A CIVIL
20 PENALTY UNDER ANY OTHER ACT.

21 (2) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
22 RESTRICT THE POWERS AND DUTIES UNDER ANY OTHER ACT OF A
23 LICENSING BOARD OR LICENSING COMMISSION IN DISCIPLINARY
24 MATTERS, EXCEPT THAT A LICENSING BOARD OR LICENSING
25 COMMISSION MAY NOT IMPOSE A CIVIL PENALTY UNDER ANY OTHER ACT
26 FOR THE SAME VIOLATION FOR WHICH A CIVIL PENALTY HAS BEEN
27 IMPOSED UNDER THIS SECTION.

28 (D) STATUS OF CIVIL PENALTY.--A CIVIL PENALTY, TOGETHER WITH
29 ANY ASSOCIATED FEE, INTEREST OR COST, IMPOSED UNDER THIS SECTION
30 OR IMPOSED BY A LICENSING BOARD OR LICENSING COMMISSION UNDER

1 ANOTHER ACT SHALL BE A JUDGMENT IN FAVOR OF THE BUREAU UPON THE
2 PERSON OR THE PROPERTY OF THE PERSON, WHETHER REAL OR PERSONAL,
3 AND INCLUDING ANY AFTER-ACQUIRED PROPERTY, UPON WHOM THE CIVIL
4 PENALTY IS IMPOSED. THE ATTORNEY GENERAL SHALL BE RESPONSIBLE
5 FOR ENFORCING THE JUDGMENTS IN COURTS OF COMPETENT JURISDICTION
6 IN ACCORDANCE WITH 42 PA.C.S. (RELATING TO JUDICIARY AND
7 JUDICIAL PROCEDURE).

8 (E) ENTRY OF JUDGMENT.--WITHIN 60 MONTHS OF THE FINAL
9 DISPOSITION OF A DISCIPLINARY CASE, IF AN UNPAID CIVIL PENALTY,
10 FEE, INTEREST AND COST OF A LICENSEE TOTAL \$1,000 OR MORE, THE
11 LICENSING BOARD OR LICENSING COMMISSION, OR THE RESPECTIVE AGENT
12 OF THE LICENSING BOARD OR LICENSING COMMISSION, MAY TRANSMIT A
13 COPY OF THE FINAL DISPOSITION TO THE PROTHONOTARY OF THE COURT
14 OF COMMON PLEAS IN THE COUNTY WHERE THE LICENSEE OR PROPERTY OF
15 THE LICENSEE UPON WHOM THE PENALTY, FEE, INTEREST AND COST ARE
16 IMPOSED IS LOCATED. THE FOLLOWING APPLY:

17 (1) THE PROTHONOTARY SHALL ENTER AND DOCKET THE COPY OF
18 THE FINAL DISPOSITION WITHOUT REQUIRING PAYMENT OF COSTS AS A
19 CONDITION PRECEDENT TO THE ENTRY OF THE COPY OF THE FINAL
20 DISPOSITION.

21 (2) THE TOTAL OF THE PENALTY, FEE, INTEREST AND COST
22 SHALL BE ENTERED AS A JUDGMENT UPON THE LICENSEE REGARDLESS
23 OF WHETHER THE AMOUNT HAS BEEN ORDERED TO BE PAID IN
24 INSTALLMENTS.

25 (F) PRIORITY OF LIEN.--A LIEN OBTAINED UNDER THIS SECTION
26 SHALL MAINTAIN ITS PRIORITY INDEFINITELY, AND NO WRIT OF REVIVAL
27 NEED BE FILED.

28 (G) EXECUTION.--A WRIT OF EXECUTION MAY DIRECTLY ISSUE UPON
29 THE LIEN WITHOUT THE ISSUANCE AND PROSECUTION TO JUDGMENT OF A
30 WRIT OF SCIRE FACIAS, PROVIDED THAT A NOTICE OF THE FILING AND

1 THE EFFECT OF THE LIEN BE PROVIDED TO THE LICENSEE NOT LESS THAN
2 10 DAYS BEFORE THE EXECUTION ON THE LIEN. NOTICE MAY BE SENT BY
3 REGISTERED MAIL TO THE LAST KNOWN ADDRESS OF THE LICENSEE.

4 (H) EXCEPTION TO EXECUTION.--THE LIEN SHALL HAVE NO EFFECT
5 UPON ANY STOCK OF GOODS, WARES OR MERCHANDISE REGULARLY SOLD OR
6 LEASED IN THE ORDINARY COURSE OF BUSINESS BY THE LICENSEE
7 AGAINST WHOM THE LIEN HAS BEEN ENTERED, UNLESS AND UNTIL A WRIT
8 OF EXECUTION HAS BEEN ISSUED AND A LEVY MADE UPON THE STOCK OF
9 GOODS, WARES AND MERCHANDISE.

10 (I) SATISFACTION.--ONCE A JUDGMENT IS PAID IN FULL TO THE
11 LICENSING BOARD OR LICENSING COMMISSION, OR THE RESPECTIVE AGENT
12 OF THE LICENSING BOARD OR LICENSING COMMISSION, THE LICENSING
13 BOARD OR LICENSING COMMISSION, OR THE RESPECTIVE AGENT OF THE
14 LICENSING BOARD OR LICENSING COMMISSION, SHALL, WITHIN 90 DAYS,
15 NOTIFY THE PROTHONOTARY IN WRITING OF RECEIPT OF PAYMENT IN FULL
16 AND REQUEST THE JUDGMENT BE NOTED AS SATISFIED IN FULL.

17 (J) APPLICABILITY.--THIS SECTION SHALL APPLY ONLY TO
18 DISCIPLINARY PROCEEDINGS COMMENCED ON OR AFTER AUGUST 31, 1993.

19 (K) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
20 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
21 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

22 "UNLICENSED PRACTICE." ANY OF THE FOLLOWING:

23 (1) PRACTICING A PROFESSION OR OCCUPATION OR OPERATING A
24 BUSINESS FOR WHICH A LICENSE, REGISTRATION, CERTIFICATE OR
25 PERMIT IS REQUIRED WITHOUT HOLDING A VALID, UNEXPIRED,
26 UNREVOKED OR UNSUSPENDED AUTHORITY TO DO SO.

27 (2) REPRESENTING TO THE PUBLIC OR A PERSON, THROUGH
28 OFFERINGS, ADVERTISEMENTS OR THE USE OF A TITLE, THAT THE
29 INDIVIDUAL IS QUALIFIED TO PRACTICE A PROFESSION, OCCUPATION
30 OR BUSINESS FOR WHICH A LICENSE, REGISTRATION, CERTIFICATE OR

1 PERMIT IS REQUIRED WITHOUT HOLDING A VALID, UNEXPIRED,
2 UNREVOKED OR UNSUSPENDED AUTHORITY TO DO SO.

3 § 3109. CONFIDENTIALITY OF RECORDS OF LICENSURE BOARDS.

4 (A) GENERAL RULE.--

5 (1) ALL RECORDS UNDER SECTION 708(B)(17) OF THE RIGHT-
6 TO-KNOW LAW, RELATING TO A NONCRIMINAL INVESTIGATION,
7 INCLUDING PROSECUTORIAL MEMOS AND TRANSCRIPTS OF DEPOSITIONS,
8 UNDERTAKEN BY THE BUREAU OF ENFORCEMENT AND INVESTIGATION AND
9 THE PROSECUTION DIVISION OF THE DEPARTMENT OF STATE, OFFICE
10 OF CHIEF COUNSEL ON BEHALF OF THE LICENSING BOARDS WITHIN THE
11 DEPARTMENT OF STATE OR CONCERNING A LICENSURE-RELATED
12 COMPLAINT FILED WITH THE DEPARTMENT OF STATE SHALL BE
13 CONFIDENTIAL AND PRIVILEGED.

14 (2) NO PERSON WHO HAS INVESTIGATED OR HAS ACCESS TO OR
15 CUSTODY OF DOCUMENTS, MATERIALS OR INFORMATION THAT ARE
16 CONFIDENTIAL AND PRIVILEGED UNDER THIS SUBSECTION SHALL BE
17 REQUIRED TO TESTIFY IN A JUDICIAL OR ADMINISTRATIVE
18 PROCEEDING UNLESS DIRECTED TO DO SO BY A COURT OF COMPETENT
19 JURISDICTION WITHOUT THE WRITTEN CONSENT OF THE LICENSING
20 BOARD THAT REGULATES THE PROFESSION INVOLVED.

21 (3) THIS SUBSECTION SHALL NOT PRECLUDE OR LIMIT
22 INTRODUCTION OF THE CONTENTS OF AN INVESTIGATIVE FILE OR
23 RELATED WITNESS TESTIMONY IN A HEARING OR PROCEEDING HELD
24 BEFORE THE LICENSING BOARDS WITHIN THE DEPARTMENT OF STATE.

25 (4) THIS SECTION SHALL NOT APPLY TO LETTERS TO A
26 LICENSEE OR OTHER DOCUMENTS THAT DISCLOSE THE FINAL OUTCOME
27 OF AN INVESTIGATION OR TO FINAL ADJUDICATION OR ORDERS ISSUED
28 BY THE LICENSURE BOARD.

29 (B) CERTAIN DISCLOSURE PERMITTED.--

30 (1) EXCEPT AS PROVIDED UNDER SUBSECTION (A), THIS

1 SECTION SHALL NOT PREVENT DISCLOSURE OF DOCUMENTS, MATERIALS
2 OR INFORMATION PERTAINING TO THE STATUS OF A LICENSE, PERMIT
3 OR CERTIFICATE ISSUED OR PREPARED BY THE LICENSING BOARDS OR
4 THE SHARING OF INFORMATION WITH LAW ENFORCEMENT AUTHORITIES
5 OR PROFESSIONAL LICENSURE REGULATORY BOARDS IN OTHER
6 JURISDICTIONS OR INFORMATION RELATING TO A PUBLIC
7 DISCIPLINARY PROCEEDING OR HEARING.

8 (2) ANY OTHER DISCLOSURE OF RECORDS UNDER SECTION 708(B)
9 (17) OF THE RIGHT-TO-KNOW LAW RELATING TO A NONCRIMINAL
10 INVESTIGATION, INCLUDING PROSECUTORIAL MEMOS AND TRANSCRIPTS
11 OF DEPOSITIONS BY EMPLOYEES OR AGENTS OF THE DEPARTMENT OF
12 STATE, OFFICE OF CHIEF COUNSEL, BUREAU OF PROFESSIONAL AND
13 OCCUPATIONAL AFFAIRS AND THE BUREAU OF ENFORCEMENT AND
14 INVESTIGATION MAY BE MADE ONLY IN FURTHERANCE OF AN
15 INVESTIGATION OR PROSECUTION OF ALLEGED VIOLATIONS OF
16 APPLICABLE LICENSING STATUTES, CODES OR REGULATIONS.

17 (3) VIOLATIONS OF THIS SUBSECTION SHALL SUBJECT THE
18 EMPLOYEE OR AGENT TO ADMINISTRATIVE DISCIPLINE, INCLUDING
19 DISCHARGE, SUSPENSION OR OTHER FORMAL OR APPROPRIATE
20 DISCIPLINARY ACTION.

21 (C) CONFIDENTIALITY AFFIDAVITS.--ALL EMPLOYEES AND AGENTS OF
22 THE DEPARTMENT OF STATE OFFICE OF CHIEF COUNSEL, BUREAU OF
23 PROFESSIONAL AND OCCUPATIONAL AFFAIRS AND THE BUREAU OF
24 ENFORCEMENT AND INVESTIGATION SHALL EXECUTE A CONFIDENTIALITY
25 AFFIDAVIT THAT PROVIDES THAT DOCUMENTS, MATERIALS OR INFORMATION
26 UNDER SUBSECTION (A), OBTAINED BY EMPLOYEES AND AGENTS OF THE
27 DEPARTMENT OF STATE, OFFICE OF CHIEF COUNSEL, BUREAU OF
28 PROFESSIONAL AND OCCUPATIONAL AFFAIRS AND THE BUREAU OF
29 ENFORCEMENT AND INVESTIGATION SHALL BE CONSIDERED CONFIDENTIAL
30 AND MAY BE DISCLOSED ONLY AS PERMITTED UNDER SUBSECTIONS (A) AND

1 (B).

2 (D) WAIVER PROHIBITED.--A LICENSING BOARD OR LICENSING
3 COMMISSION MAY NOT REQUIRE AN APPLICANT TO WAIVE ANY
4 CONFIDENTIALITY PROVIDED FOR UNDER THIS SECTION AS A CONDITION
5 FOR THE APPROVAL OF A LICENSE OR ANY OTHER ACTION OF THE BOARD.
6 § 3110. REPORTS.

7 LICENSING BOARDS AND LICENSING COMMISSIONS SHALL SUBMIT
8 ANNUALLY TO THE CONSUMER PROTECTION AND PROFESSIONAL LICENSURE
9 COMMITTEE OF THE SENATE AND TO THE PROFESSIONAL LICENSURE
10 COMMITTEE OF THE HOUSE OF REPRESENTATIVES A REPORT CONTAINING
11 THE FOLLOWING:

12 (1) DESCRIPTION OF THE TYPES OF COMPLAINTS RECEIVED.

13 (2) STATUS OF CASES.

14 (3) TOTAL NUMBER OF CASES AND TYPE OF DISCIPLINARY
15 ACTION TAKEN.

16 (4) PERCENTAGE OF DISCIPLINARY ACTIONS IN RELATION TO
17 THE TOTAL NUMBER OF LICENSEES.

18 (5) NUMBER OF CLOSED CASES.

19 (6) AVERAGE NUMBER OF DAYS TO CLOSE A CASE.

20 (7) NUMBER OF REVOCATIONS AND SUSPENSIONS.

21 (8) PERCENTAGE OF REVOCATIONS AND SUSPENSIONS IN
22 RELATION TO THE TOTAL NUMBER OF LICENSEES.

23 § 3111. LICENSURE BY ENDORSEMENT.

24 (A) GENERAL RULE.--NOTWITHSTANDING ANY EXISTING PROVISIONS
25 RELATED TO LICENSURE BY ENDORSEMENT OR LICENSURE BY RECIPROCITY
26 IN AN APPLICABLE LICENSING STATUTE, A LICENSING BOARD OR
27 LICENSING COMMISSION SHALL ISSUE A LICENSE, CERTIFICATE,
28 REGISTRATION OR PERMIT TO AN APPLICANT TO ALLOW PRACTICE IN THIS
29 COMMONWEALTH IF, UPON APPLICATION TO THE LICENSING BOARD OR
30 LICENSING COMMISSION, THE APPLICANT SATISFIES ALL OF THE

1 FOLLOWING CONDITIONS:

2 (1) HOLDS A CURRENT LICENSE, CERTIFICATE, REGISTRATION
3 OR PERMIT FROM ANOTHER STATE, TERRITORY OR COUNTRY AND THE
4 LICENSING BOARD OR LICENSING COMMISSION DETERMINES THAT
5 STATE'S, TERRITORY'S OR COUNTRY'S REQUIREMENTS ARE
6 SUBSTANTIALLY EQUIVALENT TO OR EXCEED THE REQUIREMENTS
7 ESTABLISHED IN THIS COMMONWEALTH.

8 (2) DEMONSTRATES COMPETENCY IN THE PROFESSION OR
9 OCCUPATION THROUGH METHODS DETERMINED BY THE LICENSING BOARD
10 OR LICENSING COMMISSION, INCLUDING HAVING COMPLETED
11 CONTINUING EDUCATION OR HAVING EXPERIENCE IN THE PROFESSION
12 OR OCCUPATION FOR AT LEAST TWO OF THE FIVE YEARS PRECEDING
13 THE DATE OF THE APPLICATION UNDER THIS SECTION.

14 (3) HAS NOT COMMITTED ANY ACT THAT CONSTITUTES GROUNDS
15 FOR REFUSAL, SUSPENSION OR REVOCATION OF A LICENSE,
16 CERTIFICATE, REGISTRATION OR PERMIT TO PRACTICE THAT
17 PROFESSION OR OCCUPATION IN THIS COMMONWEALTH UNLESS THE
18 LICENSING BOARD OR LICENSING COMMISSION DETERMINES, IN ITS
19 DISCRETION, THAT THE ACT SHOULD NOT BE AN IMPEDIMENT TO THE
20 GRANTING OF A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT TO
21 PRACTICE IN THIS COMMONWEALTH.

22 (4) IS IN GOOD STANDING AND HAS NOT BEEN DISCIPLINED BY
23 THE JURISDICTION THAT ISSUED THE LICENSE, CERTIFICATE,
24 REGISTRATION OR PERMIT UNLESS THE LICENSING BOARD OR
25 LICENSING COMMISSION DETERMINES, IN ITS DISCRETION, THAT THE
26 DISCIPLINE SHOULD NOT BE AN IMPEDIMENT TO THE GRANTING OF A
27 LICENSE, CERTIFICATE, REGISTRATION OR PERMIT TO PRACTICE IN
28 THIS COMMONWEALTH.

29 (5) PAYS ANY FEES ESTABLISHED BY THE LICENSING BOARD OR
30 LICENSING COMMISSION BY REGULATION.

1 (B) PROVISIONAL ENDORSEMENT LICENSE.--A LICENSING BOARD OR
2 LICENSING COMMISSION MAY ISSUE A PROVISIONAL LICENSE,
3 CERTIFICATE, REGISTRATION OR PERMIT TO AN APPLICANT FOR
4 LICENSURE BY ENDORSEMENT WHILE THE APPLICANT IS SATISFYING
5 REMAINING REQUIREMENTS FOR THE LICENSURE BY ENDORSEMENT AS
6 DETERMINED BY THE LICENSING BOARD OR LICENSING COMMISSION. THE
7 HOLDER OF A PROVISIONAL ENDORSEMENT LICENSE ISSUED UNDER THIS
8 SUBSECTION MAY PRACTICE UNTIL ANY OF THE FOLLOWING OCCURS:

9 (1) A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT IS
10 DENIED BY THE LICENSING BOARD OR LICENSING COMMISSION UNDER
11 THIS SECTION.

12 (2) THE EXPIRATION OF THE PROVISIONAL ENDORSEMENT
13 LICENSE AS ESTABLISHED BY THE LICENSING BOARD OR LICENSING
14 COMMISSION BY REGULATION.

15 (3) THE HOLDER OF THE PROVISIONAL ENDORSEMENT LICENSE
16 FAILS TO COMPLY WITH THE TERMS OF THE PROVISIONAL LICENSE.

17 (C) CONSTRUCTION.--NOTHING IN THIS SECTION IS INTENDED TO
18 SUPERSEDE OR REPLACE EXISTING STATUTORY PROVISIONS RELATING TO
19 LICENSURE BY ENDORSEMENT OR LICENSURE BY RECIPROCITY APPLICABLE
20 TO LICENSING BOARDS AND LICENSING COMMISSIONS THROUGH THEIR
21 RESPECTIVE ENABLING STATUTES.

22 § 3112. RESTRICTED LICENSES FOR BARBERS AND COSMETOLOGISTS.

23 (A) SUPPLEMENTARY PROVISIONS.--NOTWITHSTANDING ANY PROVISION
24 OF LAW TO THE CONTRARY, AS AN ALTERNATIVE TO REFUSING TO ISSUE
25 OR RENEW, SUSPENDING, REVOKING OR LIMITING A LICENSE AS A RESULT
26 OF A FINDING THAT AN APPLICANT FOR A BARBER'S LICENSE LACKS THE
27 FITNESS TO ENGAGE IN THE PRACTICE OF BARBERING UNDER SECTION
28 3(A) OF THE ACT OF JUNE 19, 1931 (P.L.589, NO. 202), REFERRED TO
29 AS THE BARBERS' LICENSE LAW, OR THAT AN APPLICANT FOR A
30 COSMETOLOGY LICENSE IS NOT OF GOOD MORAL CHARACTER UNDER SECTION

1 4(A) OF THE ACT OF MAY 3, 1933 (P.L.242, NO.86), REFERRED TO AS
2 THE COSMETOLOGY LAW, DUE TO A CRIMINAL CONVICTION, OR IS
3 OTHERWISE INELIGIBLE FOR A LICENSE AS A BARBER OR COSMETOLOGIST
4 AS A RESULT OF A CRIMINAL CONVICTION, THE STATE BOARD OF BARBER
5 EXAMINERS OR THE STATE BOARD OF COSMETOLOGY MAY ISSUE A
6 RESTRICTED LICENSE FOR A TERM NOT LESS THAN ONE YEAR AND NOT
7 MORE THAN TWO YEARS TO AN APPLICANT FOR A LICENSE UNDER THE
8 BARBERS' LICENSE LAW OR THE COSMETOLOGY LAW. THE FOLLOWING
9 APPLY:

10 (1) THE STATE BOARD OF BARBER EXAMINERS OR THE STATE
11 BOARD OF COSMETOLOGY SHALL DETERMINE THE PERIOD OF TIME
12 DURING WHICH THE RESPECTIVE APPLICANT SHALL OPERATE UNDER A
13 RESTRICTED LICENSE.

14 (2) THE STATE BOARD OF BARBER EXAMINERS OR THE STATE
15 BOARD OF COSMETOLOGY SHALL NOTIFY THE RESPECTIVE APPLICANT OF
16 THAT PERIOD OF TIME AND THE CONDITIONS PLACED ON THE
17 RESTRICTED LICENSE UNDER SUBSECTION (C).

18 (B) DEMONSTRATION OF FITNESS.--NOTWITHSTANDING ANY OTHER
19 PROVISION OF LAW TO THE CONTRARY AND THE INDIVIDUAL'S CRIMINAL
20 CONVICTIONS, AN APPLICANT FOR A RESTRICTED LICENSE MAY
21 DEMONSTRATE FITNESS FOR ISSUANCE OF A RESTRICTED LICENSE TO
22 PRACTICE BARBERING OR COSMETOLOGY BY INTRODUCING EVIDENCE OF THE
23 FOLLOWING, AS APPLICABLE:

24 (1) WHILE INCARCERATED, THE INDIVIDUAL MAINTAINED A
25 RECORD OF GOOD BEHAVIOR, INCLUDING THE SUCCESSFUL COMPLETION
26 OF ANY REQUIRED REHABILITATIVE PROGRAMMING OFFERED BY A
27 COUNTY CORRECTIONAL FACILITY OR THE DEPARTMENT OF
28 CORRECTIONS.

29 (2) IF INCARCERATED BY A COUNTY CORRECTIONAL FACILITY OR
30 THE DEPARTMENT OF CORRECTIONS AND ENROLLED IN A PROGRAM

1 REGARDING BARBERING OR COSMETOLOGY, THE INDIVIDUAL HAS
2 SUCCESSFULLY COMPLETED THE REQUISITE EDUCATION OR TRAINING
3 REQUIREMENTS OF THE PROGRAM.

4 (3) THE INDIVIDUAL HAS NOT BEEN FOUND TO BE IN VIOLATION
5 OF PROBATION OR PAROLE.

6 (4) THE INDIVIDUAL HAS DEMONSTRATED A COMMITMENT TO
7 LIVING A LAW-ABIDING LIFE, WHICH MAY BE ESTABLISHED BY A
8 LETTER OF RECOMMENDATION FROM THE INDIVIDUAL'S PROBATION
9 OFFICER, PAROLE OFFICER OR APPROPRIATE OFFICIAL WITHIN THE
10 COUNTY CORRECTIONAL FACILITY OR THE DEPARTMENT OF
11 CORRECTIONS, OR ANY OTHER MEANS, AT THE DISCRETION OF THE
12 STATE BOARD OF BARBER EXAMINERS OR THE STATE BOARD OF
13 COSMETOLOGY, AS APPLICABLE.

14 (C) CONDITIONS FOR RESTRICTED LICENSE.--THE STATE BOARD OF
15 BARBER EXAMINERS OR THE STATE BOARD OF COSMETOLOGY SHALL IMPOSE
16 CONDITIONS ON A HOLDER OF A RESTRICTED LICENSE, INCLUDING ANY OF
17 THE FOLLOWING:

18 (1) LIMITING THE SCOPE OR LOCATION OF THE RESTRICTED
19 LICENSE HOLDER'S PRACTICE.

20 (2) REQUIRING THE RESTRICTED LICENSE HOLDER TO BE
21 REASONABLY SUPERVISED DURING BUSINESS HOURS BY A LICENSED
22 MANAGER-BARBER OR A LICENSEE DESIGNATED IN CHARGE OF THE
23 BARBER SHOP OR A LICENSED COSMETOLOGY TEACHER OR SALON OWNER
24 OR DESIGNATED PERSON IN CHARGE OF THE SALON, AS APPLICABLE.

25 (3) REQUIRING THE RESTRICTED LICENSE HOLDER TO NOTIFY
26 THE STATE BOARD OF BARBER EXAMINERS OR THE STATE BOARD OF
27 COSMETOLOGY, AS APPLICABLE, IN WRITING AS SOON AS IS
28 PRACTICABLE OF A CHANGE IN THE SUPERVISOR SPECIFIED UNDER
29 PARAGRAPH (2).

30 (4) REQUIRING THE RESTRICTED LICENSE HOLDER TO ABIDE BY

1 ANY OTHER CONDITION THAT THE STATE BOARD OF BARBER EXAMINERS
2 OR THE STATE BOARD OF COSMETOLOGY, AS APPLICABLE, DEEMS
3 APPROPRIATE.

4 (D) REVOCATION.--A RESTRICTED LICENSE SHALL BE IMMEDIATELY
5 REVOKED IF ANY OF THE FOLLOWING OCCURS:

6 (1) THE RESTRICTED LICENSE HOLDER IS CONVICTED OF AN
7 OFFENSE GRADED AS A MISDEMEANOR OR FELONY IN THIS
8 COMMONWEALTH OR A SIMILAR OR EQUIVALENT OFFENSE IN ANOTHER
9 JURISDICTION FOLLOWING THE RECEIPT OF THE RESTRICTED LICENSE.

10 (2) THE RESTRICTED LICENSE HOLDER FAILS TO COMPLY WITH
11 ANY CONDITION IMPOSED BY THE STATE BOARD OF BARBER EXAMINERS
12 OR THE STATE BOARD OF COSMETOLOGY AND SPECIFIED UNDER
13 SUBSECTION (C).

14 (E) COMPLIANCE.--WITHIN 30 DAYS OF THE CONCLUSION OF THE
15 TERM OF THE RESTRICTED LICENSE, THE SUPERVISING LICENSED
16 MANAGER-BARBER OR A LICENSEE DESIGNATED IN CHARGE OF THE BARBER
17 SHOP OR A LICENSED COSMETOLOGY TEACHER OR SALON OWNER OR
18 DESIGNATED PERSON IN CHARGE OF THE SALON, AS APPROPRIATE, SHALL
19 PROVIDE WRITTEN NOTICE TO THE STATE BOARD OF BARBER EXAMINERS OR
20 THE STATE BOARD OF COSMETOLOGY, AS TO WHETHER THE RESTRICTED
21 LICENSE HOLDER COMPLIED WITH ALL CONDITIONS IMPOSED UNDER
22 SUBSECTION (C). IF THE RESTRICTED LICENSE HOLDER MEETS ALL OF
23 THE OTHER QUALIFICATIONS FOR LICENSURE UNDER THE BARBERS'
24 LICENSE LAW OR THE COSMETOLOGY LAW, THE STATE BOARD OF BARBER
25 EXAMINERS OR THE STATE BOARD OF COSMETOLOGY SHALL ISSUE A
26 LICENSE TO PRACTICE UNDER THE BARBERS' LICENSE LAW OR THE
27 COSMETOLOGY LAW, AS APPROPRIATE.

28 (F) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE
29 CONSTRUED TO RESTRICT ANY OF THE OTHER POWERS AND DUTIES OF THE
30 STATE BOARD OF COSMETOLOGY OR THE STATE BOARD OF BARBER

1 EXAMINERS.

2 SECTION 3112.1. RESTRICTED LICENSES FOR OTHER OCCUPATIONS.

3 (A) OCCUPATIONS OTHER THAN BARBERING AND COSMETOLOGY.--

4 NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, IF A

5 COUNTY CORRECTIONAL FACILITY OR THE DEPARTMENT OF CORRECTIONS

6 OFFERS TRAINING IN THE OCCUPATION, OTHER THAN BARBERING AND

7 COSMETOLOGY, WHICH REQUIRES THE ISSUANCE OF A LICENSE,

8 CERTIFICATE, REGISTRATION OR PERMIT BY THE BUREAU IN ORDER TO

9 ENGAGE IN THAT OCCUPATION, THE APPLICABLE LICENSING BOARD OR

10 LICENSING COMMISSION MAY ISSUE A RESTRICTED LICENSE TO AN

11 APPLICANT AS SPECIFIED IN THIS SECTION AS AN ALTERNATIVE TO

12 REFUSING TO ISSUE OR RENEW, SUSPENDING, REVOKING OR LIMITING A

13 LICENSE AS A RESULT OF A FINDING THAT THE APPLICANT FOR A

14 LICENSE, CERTIFICATE, REGISTRATION OR PERMIT LACKS THE FITNESS

15 TO ENGAGE IN THE OCCUPATION DUE TO A CRIMINAL CONVICTION OR IS

16 OTHERWISE INELIGIBLE FOR LICENSURE DUE TO A CRIMINAL CONVICTION.

17 THE FOLLOWING SHALL APPLY:

18 (1) THE APPLICABLE LICENSING BOARD OR COMMISSION SHALL

19 DETERMINE THE PERIOD OF TIME DURING WHICH THE APPLICANT SHALL

20 OPERATE UNDER A RESTRICTED LICENSE. THE MINIMUM PERIOD OF

21 TIME SHALL BE ONE YEAR. THE MAXIMUM PERIOD OF TIME SHALL BE

22 TWO YEARS.

23 (2) THE APPLICABLE LICENSING BOARD OR LICENSING

24 COMMISSION SHALL NOTIFY THE APPLICANT OF THE TIME PERIOD

25 UNDER PARAGRAPH (1) AND THE CONDITIONS PLACED ON THE

26 RESTRICTED LICENSE UNDER SUBSECTION (C).

27 (B) DEMONSTRATION OF FITNESS.--NOTWITHSTANDING ANY OTHER

28 PROVISION OF LAW TO THE CONTRARY AND THE CRIMINAL CONVICTION, AN

29 APPLICANT FOR A RESTRICTED LICENSE MAY DEMONSTRATE FITNESS FOR

30 ISSUANCE OF A RESTRICTED LICENSE TO PRACTICE BY INTRODUCING

1 EVIDENCE OF THE FOLLOWING:

2 (1) WHILE INCARCERATED, THE INDIVIDUAL MAINTAINED A
3 RECORD OF GOOD BEHAVIOR, INCLUDING THE SUCCESSFUL COMPLETION
4 OF ANY REQUIRED REHABILITATIVE PROGRAMMING OFFERED BY A
5 COUNTY CORRECTIONAL FACILITY OR THE DEPARTMENT OF
6 CORRECTIONS.

7 (2) IF INCARCERATED BY A COUNTY CORRECTIONAL FACILITY OR
8 THE DEPARTMENT OF CORRECTIONS AND ENROLLED IN A PROGRAM
9 REGARDING THE OCCUPATION FOR WHICH A RESTRICTED LICENSE IS
10 SOUGHT, THE APPLICANT SUCCESSFULLY COMPLETED THE REQUISITE
11 EDUCATION OR TRAINING REQUIREMENTS OF THE PROGRAM.

12 (3) THE APPLICANT HAS NOT BEEN FOUND TO BE IN VIOLATION
13 OF PROBATION OR PAROLE.

14 (4) THE APPLICANT HAS DEMONSTRATED A COMMITMENT TO
15 LIVING A LAW-ABIDING LIFE, WHICH MAY BE ESTABLISHED BY A
16 LETTER OF RECOMMENDATION FROM THE APPLICANT'S PROBATION
17 OFFICER, PAROLE OFFICER OR APPROPRIATE OFFICIAL WITHIN THE
18 COUNTY CORRECTIONAL FACILITY OR THE DEPARTMENT OF
19 CORRECTIONS, OR BY ANY OTHER MEANS, AT THE DISCRETION OF THE
20 LICENSING BOARD OR LICENSING COMMISSION, AS APPLICABLE.

21 (C) CONDITIONS.--THE LICENSING BOARD OR LICENSING COMMISSION
22 SHALL IMPOSE CONDITIONS ON A HOLDER OF A RESTRICTED LICENSE,
23 INCLUDING:

24 (1) LIMITING THE SCOPE OR LOCATION OF THE RESTRICTED
25 LICENSE HOLDER'S PRACTICE.

26 (2) REQUIRING THE RESTRICTED LICENSE HOLDER TO BE
27 REASONABLY SUPERVISED DURING BUSINESS HOURS BY AN INDIVIDUAL
28 LICENSED BY THE LICENSING BOARD OR LICENSING COMMISSION, AS
29 APPLICABLE.

30 (3) REQUIRING THE RESTRICTED LICENSE HOLDER TO NOTIFY

1 THE LICENSING BOARD OR LICENSING COMMISSION, AS APPLICABLE,
2 IN WRITING AS SOON AS IS PRACTICABLE OF A CHANGE IN THE
3 SUPERVISOR UNDER PARAGRAPH (2).

4 (4) REQUIRING THE RESTRICTED LICENSE HOLDER TO ABIDE BY
5 ANY OTHER CONDITION THE LICENSING BOARD OR LICENSING
6 COMMISSION, AS APPLICABLE, DEEMS APPROPRIATE.

7 (D) REVOCATION.--THE RESTRICTED LICENSE SHALL BE IMMEDIATELY
8 REVOKED IF ANY OF THE FOLLOWING OCCURS:

9 (1) THE RESTRICTED LICENSE HOLDER IS CONVICTED OF AN
10 OFFENSE GRADED AS A MISDEMEANOR OR FELONY IN THIS
11 COMMONWEALTH OR A SIMILAR OR EQUIVALENT OFFENSE IN ANOTHER
12 JURISDICTION FOLLOWING THE RECEIPT OF THE RESTRICTED LICENSE.

13 (2) THE RESTRICTED LICENSE HOLDER FAILS TO COMPLY WITH
14 ANY OF THE CONDITIONS IMPOSED BY THE LICENSING BOARD OR
15 LICENSING COMMISSION, AS APPLICABLE, UNDER SUBSECTION (C).

16 (E) NOTICE.--WITHIN 30 DAYS OF THE CONCLUSION OF THE TERM OF
17 THE RESTRICTED LICENSE, THE LICENSEE SUPERVISING THE HOLDER OF
18 THE RESTRICTED LICENSE SHALL PROVIDE WRITTEN NOTICE TO THE
19 LICENSING BOARD OR LICENSING COMMISSION, AS APPROPRIATE, AS TO
20 WHETHER THE RESTRICTED LICENSE HOLDER COMPLIED WITH ALL
21 CONDITIONS IMPOSED BY THE LICENSING BOARD OR LICENSING
22 COMMISSION UNDER SUBSECTION (C). IF THE RESTRICTED LICENSE
23 HOLDER MEETS ALL OF THE OTHER QUALIFICATIONS FOR LICENSURE UNDER
24 THE APPLICABLE PRACTICE ACT, THE LICENSING BOARD OR LICENSING
25 COMMISSION, AS APPROPRIATE, SHALL ISSUE A LICENSE TO PRACTICE
26 THAT OCCUPATION.

27 (F) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE
28 CONSTRUED TO RESTRICT ANY OF THE OTHER POWERS AND DUTIES OF THE
29 LICENSING BOARD OR LICENSING COMMISSION, AS APPLICABLE.

30 § 3113. SUPPLEMENTARY PROVISIONS REGARDING CRIMINAL

1 CONVICTIONS.

2 (A) SUPPLEMENTARY PROVISIONS.--EXCEPT AS PROVIDED IN
3 SECTIONS 3112 (RELATING TO RESTRICTED LICENSES FOR BARBERS AND
4 COSMETOLOGISTS) AND 3112.1 (RELATING TO RESTRICTED LICENSES FOR
5 OTHER OCCUPATIONS), NOTWITHSTANDING ANY PROVISION OF LAW TO THE
6 CONTRARY, AS AN ALTERNATIVE TO A LICENSING BOARD OR LICENSING
7 COMMISSION REFUSING TO ISSUE OR RENEW, SUSPENDING, REVOKING OR
8 LIMITING A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT UNDER 18
9 PA.C.S. § 9124 (RELATING TO USE OF RECORDS BY LICENSING
10 AGENCIES) OR UNDER THE PRACTICE ACTS OF THE LICENSING BOARD OR
11 LICENSING COMMISSION DUE TO A CRIMINAL CONVICTION, THE LICENSING
12 BOARD OR LICENSING COMMISSION MAY DETERMINE THAT AN INDIVIDUAL
13 WITH A CRIMINAL CONVICTION MEETS THE QUALIFICATIONS FOR A
14 LICENSE, CERTIFICATE, REGISTRATION OR PERMIT IF THE INDIVIDUAL
15 MEETS THE REQUIREMENTS OF THIS SECTION.

16 (B) ANALYSIS OF CRIMINAL CONVICTIONS.--EXCEPT AS PROVIDED IN
17 SUBSECTIONS (D), (E) AND (F), A LICENSING BOARD OR A LICENSING
18 COMMISSION SHALL ENGAGE IN A TWO-STAGE ANALYSIS OF THE CRIMINAL
19 CONVICTIONS OF THE APPLICANT. THE FOLLOWING SHALL APPLY:

20 (1) THE FIRST STAGE OF THE ANALYSIS SHALL DETERMINE
21 WHETHER THE CRIMINAL CONVICTION DIRECTLY RELATES TO THE
22 OCCUPATION, TRADE OR PROFESSION FOR WHICH THE INDIVIDUAL
23 SEEKS LICENSURE BY REVIEWING THE SCHEDULE OF OFFENSES IN
24 SECTION 3117 (RELATING TO LIST OF CRIMINAL OFFENSES). IF THE
25 OFFENSE IS FOUND ON THE LIST OF OFFENSES THAT ARE DIRECTLY
26 RELATED TO THE OCCUPATION, TRADE OR PROFESSION, THE LICENSING
27 BOARD OR LICENSING COMMISSION SHALL THEN DETERMINE WHETHER
28 LICENSURE OF THE INDIVIDUAL WOULD POSE A SUBSTANTIAL RISK TO
29 THE HEALTH AND SAFETY OF THE INDIVIDUAL'S PATIENTS OR CLIENTS
30 OR THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL

1 CONVICTIONS BY CONDUCTING THE INDIVIDUALIZED ASSESSMENT
2 SPECIFIED IN SUBSECTION (C). THERE SHALL BE A REBUTTABLE
3 PRESUMPTION THAT LICENSURE OF THE INDIVIDUAL WITH A CRIMINAL
4 CONVICTION THAT DIRECTLY RELATES TO THE OCCUPATION, TRADE OR
5 PROFESSION WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND
6 SAFETY OF THE INDIVIDUAL'S PATIENTS OR CLIENTS OR THE PUBLIC
7 OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS. THE
8 INDIVIDUAL MAY REBUT THE PRESUMPTION BY SHOWING EVIDENCE OF
9 REHABILITATION, AS SPECIFIED IN THE FACTORS IN SUBSECTION
10 (C).

11 (2) IF, AFTER REVIEWING THE SCHEDULE OF OFFENSES IN
12 SECTION 3117, THE CRIMINAL CONVICTION IS DETERMINED NOT TO BE
13 DIRECTLY RELATED TO THE OCCUPATION, TRADE OR PROFESSION, THE
14 LICENSING BOARD OR LICENSING COMMISSION SHALL PROCEED TO THE
15 SECOND STAGE OF THE ANALYSIS OF THE CRIMINAL CONVICTION.
16 DURING THE SECOND STAGE OF THE ANALYSIS, THE LICENSING BOARD
17 OR LICENSING COMMISSION SHALL DETERMINE WHETHER, DUE TO THE
18 NATURE OF THE CRIMINAL CONVICTION, LICENSURE OF THE
19 INDIVIDUAL WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND
20 SAFETY OF THE INDIVIDUAL'S PATIENTS OR CLIENTS OR THE PUBLIC
21 OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS BY
22 CONDUCTING THE INDIVIDUALIZED ASSESSMENT SPECIFIED IN
23 SUBSECTION (C). THE INDIVIDUAL MAY REBUT THE DETERMINATION BY
24 SHOWING EVIDENCE OF REHABILITATION, AS SPECIFIED IN THE
25 FACTORS IN SUBSECTION (C).

26 (C) INDIVIDUALIZED ASSESSMENT.--A LICENSING BOARD OR
27 LICENSING COMMISSION SHALL CONDUCT AN INDIVIDUALIZED ASSESSMENT
28 OF THE INDIVIDUAL WITH RESPECT TO CRIMINAL CONVICTIONS AND
29 REHABILITATION. THE LICENSING BOARD OR LICENSING COMMISSION
30 SHALL CONSIDER THE FOLLOWING FACTORS IN ORDER TO DETERMINE

1 WHETHER THE INDIVIDUAL MEETS THE REQUIREMENTS FOR ISSUANCE OF A
2 LICENSE, CERTIFICATE, REGISTRATION OR PERMIT UNDER SUBSECTION
3 (B) (1) OR (B) (2) :

4 (1) WHETHER THE CRIMINAL CONDUCT FOR WHICH THE
5 INDIVIDUAL WAS CONVICTED INVOLVED AN ACT OR THREAT OF HARM
6 AGAINST THE INDIVIDUAL. FOR PURPOSES OF THIS PARAGRAPH, THE
7 TERM "HARM" INCLUDES HARM TO THE VICTIM, THE PERSONAL
8 PROPERTY OF THE VICTIM OR REPUTATION OF THE VICTIM.

9 (2) THE FACTS AND CIRCUMSTANCES SURROUNDING THE CRIMINAL
10 CONVICTION.

11 (3) THE NUMBER OF CRIMINAL CONVICTIONS.

12 (4) INCREASE IN AGE OR MATURITY OF THE INDIVIDUAL SINCE
13 THE DATE OF THE CRIMINAL CONVICTION.

14 (5) THE INDIVIDUAL'S CRIMINAL HISTORY OR LACK OF
15 CRIMINAL HISTORY AFTER THE DATE OF CONVICTION.

16 (6) SUCCESSFUL COMPLETION OF EDUCATION AND TRAINING
17 ACTIVITIES, INCLUDING THOSE IN A COUNTY CORRECTIONAL FACILITY
18 OR THE DEPARTMENT OF CORRECTIONS.

19 (7) REFERENCES FROM EMPLOYERS OR OTHERS, INCLUDING
20 PERSONNEL OF THE COUNTY CORRECTIONAL FACILITY OR THE
21 DEPARTMENT OF CORRECTIONS.

22 (8) PROGRESS IN PERSONAL REHABILITATION SINCE THE
23 CONVICTION.

24 (9) WHETHER THE INDIVIDUAL MEETS ALL OTHER LICENSING
25 QUALIFICATIONS OF THE APPLICABLE PRACTICE ACT, INCLUDING ANY
26 EXAMINATION REQUIREMENTS.

27 (10) THE INDIVIDUAL'S CRIMINAL HISTORY, OR LACK OF
28 CRIMINAL HISTORY, AFTER THE DATE OF THE CRIMINAL CONVICTION
29 WHILE ENGAGED IN THE SAME OR SIMILAR PROFESSION OR
30 OCCUPATION.

1 (11) ANY OTHER FACTOR DEEMED RELEVANT TO THE LICENSING
2 BOARD OR LICENSING COMMISSION REGARDING THE FITNESS OF THE
3 INDIVIDUAL FOR LICENSURE.

4 (D) SEXUAL OFFENSES.--WHEN DETERMINING ELIGIBILITY FOR
5 LICENSURE AS A HEALTH CARE PRACTITIONER, A LICENSING BOARD OR
6 LICENSING COMMISSION MAY NOT ISSUE A LICENSE, REGISTRATION,
7 CERTIFICATE OR PERMIT OR OTHERWISE ALLOW AN INDIVIDUAL TO
8 PRACTICE AS A HEALTH CARE PRACTITIONER IF THE INDIVIDUAL HAS
9 BEEN CONVICTED OF A SEXUAL OFFENSE.

10 (E) CRIMES OF VIOLENCE.--AN INDIVIDUAL CONVICTED OF A CRIME
11 OF VIOLENCE AS DEFINED IN 42 PA.C.S. § 9714 (RELATING TO
12 SENTENCES FOR SECOND AND SUBSEQUENT OFFENSES) MAY BE GRANTED A
13 LICENSE, REGISTRATION, CERTIFICATE OR PERMIT BY A LICENSING
14 BOARD OR LICENSING COMMISSION IF ALL OF THE FOLLOWING APPLY:

15 (1) IF THE INDIVIDUAL WAS INCARCERATED, AT LEAST THREE
16 YEARS HAVE ELAPSED SINCE RELEASE FROM INCARCERATION. THE
17 PERIOD OF THREE YEARS SHALL BE TOLLED FOR A VIOLATION OF
18 PAROLE.

19 (2) IF THE INDIVIDUAL IS SERVING A SENTENCE OTHER THAN A
20 PERIOD OF CONFINEMENT IN A STATE OR COUNTY CORRECTIONAL
21 FACILITY, AT LEAST THREE YEARS HAVE ELAPSED SINCE IMPOSITION
22 OF SENTENCE.

23 (3) THE INDIVIDUAL HAS REMAINED CONVICTION-FREE DURING
24 THE PERIODS SPECIFIED IN PARAGRAPH (1) OR (2).

25 (4) THE INDIVIDUAL DEMONSTRATES SIGNIFICANT
26 REHABILITATION SINCE THE CRIMINAL CONVICTION.

27 (5) THE LICENSING BOARD OR LICENSING COMMISSION
28 DETERMINES, BY USING THE FACTORS IN SUBSECTION (C), EXCEPT
29 FOR SUBSECTION (C) (8), THAT LICENSURE OF THE INDIVIDUAL DOES
30 NOT POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE

1 INDIVIDUAL'S PATIENTS OR CLIENTS OR THE PUBLIC OR A
2 SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS.

3 (F) DRUG TRAFFICKING.--NOTWITHSTANDING ANY PROVISION OF LAW
4 TO THE CONTRARY, THE PROVISIONS OF THE RESPECTIVE PRACTICE ACTS
5 RELATING TO FELONY DRUG CONVICTIONS UNDER THE ACT OF APRIL 14,
6 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG,
7 DEVICE AND COSMETIC ACT, OR A CONVICTION FOR AN OFFENSE UNDER
8 THE LAWS OF ANOTHER JURISDICTION WHICH, IF COMMITTED IN THIS
9 COMMONWEALTH, WOULD BE A FELONY UNDER THE CONTROLLED SUBSTANCE,
10 DRUG, DEVICE AND COSMETIC ACT, SHALL APPLY TO AN INDIVIDUAL WHO
11 HAS BEEN CONVICTED OF A DRUG TRAFFICKING OFFENSE.

12 (G) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE
13 CONSTRUED TO RESTRICT ANY OF THE OTHER POWERS AND DUTIES OF A
14 LICENSING BOARD OR LICENSING COMMISSION IN DISCIPLINARY OR
15 LICENSURE MATTERS.

16 (H) PUBLIC INFORMATION.--EXCEPT FOR NAME, ADDRESS AND OTHER
17 IDENTIFYING INFORMATION, A DETERMINATION UNDER THIS SECTION
18 SHALL BE PUBLIC INFORMATION.

19 (I) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
20 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
21 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

22 "DRUG TRAFFICKING OFFENSE." A VIOLATION OF SECTION 13(A)
23 (14), (30) OR (37) OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
24 COSMETIC ACT, IF THE CONTROLLED SUBSTANCE OR A MIXTURE
25 CONTAINING IT IS:

26 (1) MARIJUANA, IF THE AMOUNT OF MARIJUANA INVOLVED IS AT
27 LEAST 10 POUNDS OR AT LEAST 21 LIVE PLANTS.

28 (2) A NARCOTIC DRUG CLASSIFIED IN SCHEDULE I OR SCHEDULE
29 II UNDER SECTION 4 OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE
30 AND COSMETIC ACT, IF THE AGGREGATE WEIGHT OF THE COMPOUND OR

1 MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST 10
2 GRAMS.

3 (3) ANY OF THE FOLLOWING, IF THE AGGREGATE WEIGHT OF THE
4 COMPOUND OR MIXTURE OF THE SUBSTANCE INVOLVED IS AT LEAST 10
5 GRAMS:

6 (I) COCA LEAVES.

7 (II) A SALT, COMPOUND, DERIVATIVE OR PREPARATION OF
8 COCA LEAVES.

9 (III) A SALT, COMPOUND, DERIVATIVE OR PREPARATION
10 WHICH IS CHEMICALLY EQUIVALENT OR IDENTICAL WITH ANY OF
11 THE SUBSTANCES UNDER SUBPARAGRAPHS (I) AND (II).

12 (IV) A MIXTURE CONTAINING ANY OF THE SUBSTANCES
13 UNDER SUBPARAGRAPHS (I) AND (II), EXCEPT DECOCAINIZED
14 COCA LEAVES OR EXTRACTS OF COCA LEAVES WHICH DO NOT
15 CONTAIN COCAINE OR ECGONINE.

16 (4) ANY OF THE FOLLOWING, IF THE AGGREGATE WEIGHT OF THE
17 COMPOUND OR MIXTURE OF THE SUBSTANCE INVOLVED IS AT LEAST 10
18 GRAMS:

19 (I) METHAMPHETAMINE.

20 (II) PHENCYCLIDINE.

21 (III) A SALT, ISOMER OR SALT OF AN ISOMER OF
22 METHAMPHETAMINE OR PHENCYCLIDINE.

23 (IV) A MIXTURE CONTAINING:

24 (A) METHAMPHETAMINE OR PHENCYCLIDINE.

25 (B) A SALT OF METHAMPHETAMINE OR PHENCYCLIDINE.

26 (C) AN ISOMER OF METHAMPHETAMINE OR
27 PHENCYCLIDINE.

28 (D) A SALT OF AN ISOMER OF METHAMPHETAMINE OR
29 PHENCYCLIDINE.

30 (5) HEROIN OR A MIXTURE CONTAINING HEROIN, IF THE

1 AGGREGATE WEIGHT OF THE COMPOUND OR MIXTURE CONTAINING THE
2 HEROIN IS FIVE GRAMS OR GREATER.

3 (6) A MIXTURE CONTAINING 3,4-METHYLENEDIOXYAMPHETAMINE
4 (MDA); 3,4-METHYLENEDIOXYMETHAMPHETAMINE (MDMA); 5-METHOXY-
5 3,4-METHYLENEDIOXYAMPHETAMINE (MMDA); 3,4-METHYLENEDIOXY-N-
6 ETHYLAMPHETAMINE; N-HYDROXY-3,4-METHYLENEDIOXYAMPHETAMINE.
7 WHEN THE AGGREGATE WEIGHT OF THE COMPOUND OR MIXTURE
8 CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST 100 TABLETS,
9 CAPSULES, CAPLETS OR OTHER DOSAGE UNITS OR 30 GRAMS.

10 (7) FENTANYL OR A MIXTURE CONTAINING FENTANYL, IF THE
11 AGGREGATE WEIGHT OF THE COMPOUND OR MIXTURE CONTAINING THE
12 FENTANYL IS FIVE GRAMS OR MORE.

13 "HEALING ARTS." THE SCIENCE AND SKILL OF DIAGNOSIS OR
14 TREATMENT IN ANY MANNER WHATSOEVER OF DISEASE OR ANY AILMENT OF
15 THE HUMAN BODY.

16 "HEALTH CARE PRACTITIONER." AN INDIVIDUAL WHO IS AUTHORIZED
17 TO PRACTICE SOME COMPONENT OF THE HEALING ARTS BY A LICENSE,
18 CERTIFICATE, REGISTRATION OR PERMIT ISSUED BY A LICENSING BOARD
19 OR LICENSING COMMISSION.

20 "SEXUAL OFFENSE." AN ACT, CONSPIRACY OR SOLICITATION TO
21 COMMIT ANY OF THE FOLLOWING OFFENSES OR AN EQUIVALENT CRIME IN
22 ANOTHER JURISDICTION:

23 (1) 18 PA.C.S. § 2910 (RELATING TO LURING A CHILD INTO A
24 MOTOR VEHICLE OR STRUCTURE).

25 (2) ANY OF THE OFFENSES ENUMERATED IN 18 PA.C.S. CH. 30
26 (RELATING TO HUMAN TRAFFICKING) IF THE OFFENSE INVOLVED
27 SEXUAL SERVITUDE.

28 (3) ANY OF THE OFFENSES ENUMERATED IN 18 PA.C.S. CH. 31
29 (RELATING TO SEXUAL OFFENSES).

30 (4) 18 PA.C.S. § 4302 (RELATING TO INCEST).

1 (5) 18 PA.C.S. § 4304(A)(1) (RELATING TO ENDANGERING
2 WELFARE OF CHILDREN) IF THE OFFENSE INVOLVED SEXUAL CONTACT
3 WITH THE VICTIM.

4 (6) 18 PA.C.S. § 5901 (RELATING TO OPEN LEWDNESS) IF THE
5 OFFENSE INVOLVED A MINOR UNDER 18 YEARS OF AGE.

6 (7) 18 PA.C.S. § 5902(B) OR (B.1) (RELATING TO
7 PROSTITUTION AND RELATED OFFENSES).

8 (8) 18 PA.C.S. § 5903 (RELATING TO OBSCENE AND OTHER
9 SEXUAL MATERIALS AND PERFORMANCES) IF THE OFFENSE INVOLVED A
10 MINOR UNDER 18 YEARS OF AGE.

11 (9) 18 PA.C.S. § 6301(A)(1)(I) (RELATING TO CORRUPTION
12 OF MINORS) IF THE OFFENSE INVOLVED SEXUAL CONTACT WITH THE
13 VICTIM.

14 (10) 18 PA.C.S. § 6301(A)(1)(II).

15 (11) 18 PA.C.S. § 6312 (RELATING TO SEXUAL ABUSE OF
16 CHILDREN).

17 (12) 18 PA.C.S. § 6318 (RELATING TO UNLAWFUL CONTACT
18 WITH MINOR).

19 (13) 18 PA.C.S. § 6320 (RELATING TO SEXUAL EXPLOITATION
20 OF CHILDREN).

21 (14) 18 PA.C.S. § 7507.1 (RELATING TO INVASION OF
22 PRIVACY).

23 § 3114. JUVENILE ADJUDICATIONS.

24 NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, WHEN
25 DETERMINING WHETHER AN APPLICANT IS QUALIFIED TO BE ISSUED A
26 LICENSE, REGISTRATION, CERTIFICATE OR PERMIT, A LICENSING BOARD
27 OR LICENSING COMMISSION MAY NOT CONSIDER THE APPLICANT'S
28 JUVENILE ADJUDICATIONS.

29 § 3115. PRELIMINARY DETERMINATIONS BY LICENSING BOARDS AND
30 LICENSING COMMISSIONS.

1 (A) REQUEST FOR PRELIMINARY DETERMINATION.--AN INDIVIDUAL
2 WITH A CRIMINAL CONVICTION MAY REQUEST IN WRITING THAT A
3 LICENSING BOARD OR LICENSING COMMISSION PROVIDE A PRELIMINARY
4 DETERMINATION REGARDING WHETHER THE INDIVIDUAL'S CRIMINAL
5 CONVICTION WILL LIKELY DISQUALIFY THE INDIVIDUAL FROM RECEIVING
6 A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT. THE FOLLOWING
7 APPLY:

8 (1) THE INDIVIDUAL MAY MAKE THE WRITTEN REQUEST AT ANY
9 TIME, INCLUDING PRIOR TO OBTAINING ANY MANDATORY EDUCATION OR
10 TRAINING RELATING TO A TRADE, PROFESSION OR OCCUPATION,
11 EITHER AS PART OF THE APPLICATION FOR LICENSURE OR SEPARATELY
12 FROM AN APPLICATION FOR LICENSURE.

13 (2) THE WRITTEN REQUEST SHALL BE SUBMITTED ON A FORM
14 PRESCRIBED BY THE LICENSING BOARD OR LICENSING COMMISSION AND
15 SHALL INCLUDE THE FOLLOWING INFORMATION:

16 (I) IDENTIFICATION OF THE LICENSE, CERTIFICATE,
17 REGISTRATION OR PERMIT FOR WHICH THE INDIVIDUAL MAY
18 APPLY.

19 (II) A DETAILED DESCRIPTION OF ANY CRIMINAL
20 PROCEEDINGS THAT RESULTED IN A JUDGMENT AGAINST THE
21 INDIVIDUAL.

22 (III) ANY OTHER INFORMATION THAT THE INDIVIDUAL
23 BELIEVES WOULD ASSIST THE LICENSING BOARD OR LICENSING
24 COMMISSION WITH THE DETERMINATION.

25 (B) DETERMINATION.--

26 (1) IF THE WRITTEN REQUEST UNDER SUBSECTION (A) IS
27 SUBMITTED SEPARATELY FROM AN APPLICATION FOR LICENSURE, THE
28 LICENSING BOARD OR LICENSING COMMISSION SHALL ISSUE THE
29 DETERMINATION WITHIN 45 BUSINESS DAYS.

30 (2) IF THE DETERMINATION IS PART OF THE APPLICATION, THE

1 DETERMINATION SHALL BE ISSUED AS SOON AS IS PRACTICABLE.

2 (3) THE FORM DEVELOPED BY THE LICENSING BOARD OR
3 LICENSING COMMISSION FOR THE DETERMINATION SHALL PROVIDE
4 NOTICE THAT THE DETERMINATION IS NEITHER FINAL NOR BINDING.

5 (4) A LICENSING BOARD OR LICENSING COMMISSION SHALL NOT
6 BE BOUND BY THE DETERMINATION UNDER THIS SECTION IF THE
7 INDIVIDUAL APPLIES FOR A LICENSE, CERTIFICATE, REGISTRATION
8 OR PERMIT.

9 (5) THE DETERMINATION SHALL HAVE NO PRECEDENTIAL VALUE
10 AND MAY NOT BE RELIED UPON BY ANOTHER INDIVIDUAL APPLYING FOR
11 A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT.

12 (C) PUBLIC RECORD.--A WRITTEN REQUEST FOR A DETERMINATION
13 AND A DETERMINATION ISSUED BY A LICENSING BOARD OR LICENSING
14 COMMISSION UNDER THIS SECTION SHALL BE, WITH THE EXCEPTION OF
15 NAME, ADDRESS AND OTHER IDENTIFYING INFORMATION, A PUBLIC
16 RECORD.

17 (D) FEES.--

18 (1) A LICENSING BOARD OR LICENSING COMMISSION MAY CHARGE
19 A FEE FOR THE DETERMINATION, HOWEVER, THE FEE MAY NOT EXCEED
20 AN AMOUNT SUFFICIENT TO REIMBURSE THE LICENSING BOARD OR
21 LICENSING COMMISSION FOR THE ADMINISTRATIVE COSTS ASSOCIATED
22 WITH PROCESSING THE PRELIMINARY DETERMINATION.

23 (2) THE FEE FOR THE DETERMINATION MAY NOT EXCEED \$45 FOR
24 EACH WRITTEN REQUEST FILED BEFORE JANUARY 1, 2022.

25 (3) THE COMMISSIONER, AFTER CONSULTATION WITH THE
26 LICENSING BOARDS AND LICENSING COMMISSIONS, SHALL ADOPT A
27 SCHEDULE OF FEES TO APPLY ON JANUARY 1, 2022, AND EACH YEAR
28 THEREAFTER RELATING TO THE COST FOR A DETERMINATION UNDER
29 THIS SECTION. THE FOLLOWING APPLY:

30 (I) WITHIN 180 DAYS OF THE EFFECTIVE DATE OF THIS

1 SUBSECTION, THE COMMISSIONER SHALL TRANSMIT NOTICE OF THE
2 ADOPTION OF THE SCHEDULE OF FEES TO THE LEGISLATIVE
3 REFERENCE BUREAU FOR PUBLICATION IN THE PENNSYLVANIA
4 BULLETIN WITHIN 10 DAYS AFTER RECEIPT OF THE NOTICE. THE
5 SCHEDULE OF FEES MUST INCLUDE A PROCEDURE FOR THE
6 LICENSING BOARDS AND LICENSING COMMISSIONS TO ISSUE
7 DETERMINATIONS AND WAIVE THE FEE IF PAYMENT OF THE FEE
8 WOULD CONSTITUTE AN ECONOMIC HARDSHIP FOR THE APPLICANT.

9 (II) WITHIN TWO YEARS OF THE PUBLICATION OF THE
10 SCHEDULE OF FEES AND PROCEDURE UNDER SUBPARAGRAPH (I),
11 THE COMMISSIONER SHALL PROMULGATE A REGULATION SPECIFYING
12 THE SCHEDULE OF FEES AND ESTABLISHING A PROCEDURE FOR
13 WAIVING THE FEE IF PAYMENT OF THE FEE WOULD CONSTITUTE AN
14 ECONOMIC HARDSHIP FOR THE APPLICANT.

15 § 3116. BEST PRACTICES GUIDE.

16 (A) DEVELOPMENT OF GUIDE.--WITHIN 180 DAYS OF THE EFFECTIVE
17 DATE OF THIS SUBSECTION, THE DEPARTMENT OF STATE SHALL, IN
18 COLLABORATION WITH THE LICENSING BOARDS AND LICENSING
19 COMMISSIONS, DEVELOP A GUIDE OF BEST PRACTICES FOR AN APPLICANT
20 WITH A CRIMINAL CONVICTION TO USE WHEN SEEKING A LICENSE,
21 CERTIFICATE, REGISTRATION OR PERMIT. THE FOLLOWING APPLY:

22 (1) THE GUIDE SHALL BE PUBLISHED IN BOTH ENGLISH AND
23 SPANISH.

24 (2) THE GUIDE SHALL INCLUDE, AT A MINIMUM, A SUMMARY OF
25 THE PROVISIONS OF THE FOLLOWING:

26 (I) SECTION 3112 (RELATING TO RESTRICTED LICENSES
27 FOR BARBERS AND COSMETOLOGISTS).

28 (II) SECTION 3112.1 (RELATING TO RESTRICTED LICENSES
29 FOR OTHER OCCUPATIONS).

30 (III) SECTION 3113 (RELATING TO SUPPLEMENTARY

1 PROVISIONS REGARDING CRIMINAL CONVICTIONS).

2 (IV) SECTION 3114 (RELATING TO JUVENILE
3 ADJUDICATIONS).

4 (V) SECTION 3115 (RELATING TO PRELIMINARY
5 DETERMINATIONS BY LICENSING BOARDS AND LICENSING
6 COMMISSIONS).

7 (VI) SECTION 3117 (RELATING TO LIST OF CRIMINAL
8 OFFENSES).

9 (B) PUBLICATION AND DISTRIBUTION.--WITHIN 180 DAYS OF THE
10 EFFECTIVE DATE OF THIS SUBSECTION, THE DEPARTMENT OF STATE SHALL
11 PUBLISH THE GUIDE UNDER SUBSECTION (A) ON ITS PUBLICLY
12 ACCESSIBLE INTERNET WEBSITE AND SHALL PROVIDE A WRITTEN COPY
13 UPON REQUEST. THE WRITTEN COPY OF THE GUIDE SHALL BE PROVIDED
14 WITHOUT COST TO THE PERSON REQUESTING THE GUIDE.
15 § 3117. LIST OF CRIMINAL OFFENSES.

16 (A) DUTY OF COMMISSIONER.--AFTER CONSULTATION WITH THE
17 LICENSING BOARDS AND LICENSING COMMISSIONS, THE COMMISSIONER
18 SHALL HAVE THE POWER AND DUTY TO PUBLISH A SCHEDULE OF CRIMINAL
19 CONVICTIONS THAT MAY CONSTITUTE GROUNDS TO REFUSE TO ISSUE,
20 SUSPEND OR REVOKE A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT
21 FOR EACH OCCUPATION OR PROFESSION UNDER THE RESPECTIVE PRACTICE
22 ACTS. THE FOLLOWING SHALL APPLY:

23 (1) THE SCHEDULE SHALL INDICATE WHICH OFFENSES ARE THOSE
24 THAT THE LICENSING BOARD OR LICENSING COMMISSION DEEMS AS
25 DIRECTLY RELATING TO THE OCCUPATION, TRADE OR PROFESSION.

26 (2) THE SCHEDULE SHALL INDICATE THE LICENSING BOARD AND
27 LICENSING COMMISSION RESPONSIBLE FOR LICENSURE OF EACH
28 OCCUPATION OR PROFESSION.

29 (3) WITHIN 180 DAYS OF THE EFFECTIVE DATE OF THIS
30 SUBSECTION, THE COMMISSIONER SHALL TRANSMIT NOTICE OF THE

1 COMPLETION OF THE SCHEDULE TO THE LEGISLATIVE REFERENCE
2 BUREAU FOR PUBLICATION IN THE PENNSYLVANIA BULLETIN.

3 (4) WITHIN TWO YEARS OF THE PUBLICATION UNDER PARAGRAPH
4 (3), THE COMMISSIONER SHALL TRANSMIT NOTICE OF A REGULATION
5 TO THE LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION IN THE
6 PENNSYLVANIA BULLETIN. THE REGULATION SHALL BE SUBJECT TO THE
7 ACT OF JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS THE
8 REGULATORY REVIEW ACT.

9 (5) THE COMMISSIONER SHALL SUBMIT A REGULATION TO UPDATE
10 THE SCHEDULE OF CRIMINAL CONVICTIONS AS OFTEN AS THE
11 COMMISSIONER DEEMS APPROPRIATE TO REFLECT NEW STATUTORY
12 ENACTMENTS OF THE GENERAL ASSEMBLY AFFECTING THE SCHEDULE.

13 (B) PUBLIC COMMENT PERIOD.--WITHIN 120 DAYS OF THE
14 PUBLICATION OF THE SCHEDULE IN THE PENNSYLVANIA BULLETIN UNDER
15 SUBSECTION (A), THE COMMISSIONER SHALL SUBMIT INITIAL PROPOSED
16 REGULATIONS TO THE INDEPENDENT REGULATORY REVIEW COMMISSION
17 UNDER SECTION 5 OF THE REGULATORY REVIEW ACT.

18 (C) DISSEMINATION.--WITHIN 180 DAYS OF THE EFFECTIVE DATE OF
19 THIS SUBSECTION, THE SCHEDULE OF OFFENSES IN SUBSECTION (A)
20 SHALL BE PROVIDED IN WRITING TO EACH APPLICANT FOR A LICENSE,
21 CERTIFICATE, REGISTRATION OR PERMIT ISSUED BY A LICENSING BOARD
22 OR LICENSING COMMISSION AS PART OF THE APPLICATION AND SHALL BE
23 MADE PART OF THE BEST PRACTICES GUIDE UNDER SECTION 3116
24 (RELATING TO BEST PRACTICES GUIDE). THE FOLLOWING SHALL APPLY:

25 (1) WITHIN 180 DAYS OF THE EFFECTIVE DATE OF THIS
26 SUBSECTION, THE SCHEDULE SHALL BE PUBLISHED ON THE PUBLICLY
27 ACCESSIBLE INTERNET WEBSITE OF THE DEPARTMENT OF STATE.

28 (2) THE SCHEDULE OF CRIMINAL CONVICTIONS SHALL BE
29 PUBLISHED IN BOTH ENGLISH AND SPANISH.

30 (3) NOTICE THAT THE LIST OF CRIMINAL OFFENSES WILL

1 CHANGE BASED UPON NEW ENACTMENTS BY THE GENERAL ASSEMBLY
2 SHALL BE PROVIDED ON THE PUBLICLY ACCESSIBLE INTERNET WEBSITE
3 OF THE DEPARTMENT OF STATE IN WRITING AS PART OF THE
4 APPLICATION AND IN THE BEST PRACTICES GUIDE.

5 (D) APPLICATION.--THE SCHEDULE SHALL BE USED BY THE
6 LICENSING BOARDS AND LICENSING COMMISSIONS WHEN:

7 (1) PREPARING PRELIMINARY DETERMINATIONS UNDER SECTION
8 3116;

9 (2) DETERMINING WHICH CRIMINAL CONVICTIONS MAY RESULT IN
10 DISCIPLINE OF A LICENSEE; AND

11 (3) DETERMINING WHETHER A CRIMINAL CONVICTION MAY RESULT
12 IN REFUSING TO ISSUE A LICENSE, CERTIFICATE, REGISTRATION OR
13 PERMIT UNDER SECTION 3113 (RELATING TO SUPPLEMENTARY
14 PROVISIONS REGARDING CRIMINAL CONVICTIONS).

15 § 3118. REPORT TO GENERAL ASSEMBLY.

16 (A) REPORT REQUIRED.--WITHIN TWO YEARS AFTER THE EFFECTIVE
17 DATE OF THIS SECTION AND EVERY FOUR YEARS THEREAFTER, THE
18 SECRETARY OF THE COMMONWEALTH SHALL ISSUE A WRITTEN REPORT
19 REGARDING THE IMPLEMENTATION AND EFFECTIVENESS OF THE FOLLOWING:

20 (I) SECTION 3112 (RELATING TO RESTRICTED LICENSES
21 FOR BARBERS AND COSMETOLOGISTS).

22 (II) SECTION 3112.1 (RELATING TO RESTRICTED LICENSES
23 FOR OTHER OCCUPATIONS).

24 (III) SECTION 3113 (RELATING TO SUPPLEMENTARY
25 PROVISIONS REGARDING CRIMINAL CONVICTIONS).

26 (IV) SECTION 3114 (RELATING TO JUVENILE
27 ADJUDICATIONS).

28 (V) SECTION 3115 (RELATING TO PRELIMINARY
29 DETERMINATIONS BY LICENSING BOARDS AND LICENSING
30 COMMISSIONS).

1 (VI) SECTION 3116 (RELATING TO BEST PRACTICES
2 GUIDE).

3 (VII) SECTION 3117 (RELATING TO LIST OF CRIMINAL
4 OFFENSES).

5 (B) SUBMITTAL OF REPORT.--THE REPORT UNDER SUBSECTION (A)
6 SHALL BE SUBMITTED TO THE FOLLOWING:

7 (1) THE PRESIDENT PRO TEMPORE OF THE SENATE.

8 (2) THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE
9 CONSUMER PROTECTION AND PROFESSIONAL LICENSURE COMMITTEE OF
10 THE SENATE.

11 (3) THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE
12 JUDICIARY COMMITTEE OF THE SENATE.

13 (4) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

14 (5) THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE
15 JUDICIARY COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

16 (6) THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE
17 PROFESSIONAL LICENSURE COMMITTEE OF THE HOUSE OF
18 REPRESENTATIVES.

19 (C) CONTENTS OF REPORT.--THE REPORT UNDER SUBSECTION (A)
20 SHALL INCLUDE THE FOLLOWING:

21 (1) THE NUMBER OF APPLICATIONS FOR A LICENSE,
22 CERTIFICATE, REGISTRATION OR PERMIT THAT EACH LICENSING BOARD
23 AND LICENSING COMMISSION RECEIVES EACH YEAR.

24 (2) THE NUMBER OF APPLICANTS WITH CRIMINAL CONVICTIONS
25 THAT SUBMIT APPLICATIONS TO THE STATE BOARD OF BARBER
26 EXAMINERS AND THE STATE BOARD OF COSMETOLOGY, INCLUDING THE
27 FOLLOWING:

28 (I) THE NUMBER OF APPLICANTS THAT ARE ISSUED A
29 RESTRICTED LICENSE UNDER SECTION 3112.

30 (II) THE NUMBER OF APPLICANTS THAT ARE DENIED A

1 RESTRICTED LICENSE UNDER SECTION 3112 AND THE REASONS FOR
2 THE DENIALS.

3 (III) THE NUMBER OF RESTRICTED LICENSE HOLDERS THAT
4 ARE ISSUED A LICENSE TO PRACTICE UNDER THE ACT OF JUNE
5 19, 1931 (P.L.589, NO.202), REFERRED TO AS THE BARBERS'
6 LICENSE LAW, OR THE ACT OF MAY 3, 1933 (P.L.242, NO.86),
7 REFERRED TO AS THE COSMETOLOGY LAW, FOLLOWING THE
8 RESTRICTED LICENSE TERM.

9 (IV) THE NUMBER OF RESTRICTED LICENSES THAT ARE
10 REVOKED DURING THE RESTRICTED LICENSE TERM UNDER SECTION
11 3112(D) AND THE REASONS FOR THE REVOCATIONS.

12 (3) THE NUMBER OF APPLICANTS THAT ARE DENIED LICENSES,
13 CERTIFICATES, REGISTRATIONS AND PERMITS EACH YEAR BY THE
14 LICENSING BOARDS AND LICENSING COMMISSIONS AS A RESULT OF
15 CRIMINAL CONVICTIONS.

16 (4) WHETHER TO AMEND ANY PROVISION OF THIS CHAPTER.

17 (D) PUBLIC RECORD.--THE REPORT UNDER SUBSECTION (A) SHALL BE
18 A PUBLIC RECORD UNDER THE RIGHT-TO-KNOW LAW.

19 SECTION 3. REPEALS ARE AS FOLLOWS:

20 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
21 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE ADDITION OF 63
22 PA.C.S. CH. 31.

23 (2) THE ACT OF JULY 2, 1993 (P.L.345, NO.48), IS
24 REPEALED.

25 SECTION 4. THE ADDITION OF 63 PA.C.S. CH. 31 IS A
26 CONTINUATION OF THE ACT OF JULY 2, 1993 (P.L.345, NO.48). THE
27 FOLLOWING APPLY:

28 (1) EXCEPT AS OTHERWISE PROVIDED IN 63 PA.C.S. CH. 31,
29 ALL ACTIVITIES INITIATED UNDER THE ACT OF JULY 2, 1993

30 (P.L.345, NO.48), SHALL CONTINUE AND REMAIN IN FULL FORCE AND

1 EFFECT AND MAY BE COMPLETED UNDER 63 PA.C.S. CH. 31. ORDERS,
2 REGULATIONS, RULES AND DECISIONS WHICH WERE MADE UNDER THE
3 ACT OF JULY 2, 1993 (P.L.345, NO.48), AND WHICH ARE IN EFFECT
4 ON THE EFFECTIVE DATE OF SECTION 3 OF THIS ACT SHALL REMAIN
5 IN FULL FORCE AND EFFECT UNTIL REVOKED, VACATED OR MODIFIED
6 UNDER 63 PA.C.S. CH. 31. CONTRACTS, OBLIGATIONS AND
7 COLLECTIVE BARGAINING AGREEMENTS ENTERED INTO UNDER THE ACT
8 OF JULY 2, 1993 (P.L.345, NO.48), ARE NOT AFFECTED NOR
9 IMPAIRED BY THE REPEAL OF THE ACT OF JULY 2, 1993 (P.L.345,
10 NO.48).

11 (2) EXCEPT AS SET FORTH IN PARAGRAPH (3), ANY DIFFERENCE
12 IN LANGUAGE BETWEEN 63 PA.C.S. CH. 31 AND THE ACT OF JULY 2,
13 1993 (P.L.345, NO.48), IS INTENDED ONLY TO CONFORM TO THE
14 STYLE OF THE PENNSYLVANIA CONSOLIDATED STATUTES AND IS NOT
15 INTENDED TO CHANGE OR AFFECT THE LEGISLATIVE INTENT, JUDICIAL
16 CONSTRUCTION OR ADMINISTRATION AND IMPLEMENTATION OF THE ACT
17 OF JULY 2, 1993 (P.L.345, NO.48).

18 (3) PARAGRAPH (2) DOES NOT APPLY TO THE ADDITION OF THE
19 FOLLOWING PROVISIONS:

20 (I) THE DEFINITION OF "CRIMINAL CONVICTION" IN 63
21 PA.C.S. § 3102.

22 (II) 63 PA.C.S. § 3112.

23 (III) 63 PA.C.S. § 3112.1.

24 (IV) 63 PA.C.S. § 3113.

25 (V) 63 PA.C.S. § 3114.

26 (VI) 63 PA.C.S. § 3115.

27 (VII) 63 PA.C.S. § 3116.

28 (VIII) 63 PA.C.S. § 3117.

29 (IX) 63 PA.C.S. § 3118.

30 SECTION 5. THE ADDITION OF 63 PA.C.S. §§ 3112, 3112.1, 3113,

1 3114, 3115, 3116, 3117 AND 3118 SHALL APPLY TO OFFICIAL ACTS AND
2 MATTERS, INCLUDING DISCIPLINARY MATTERS, RELATED TO THE ISSUANCE
3 OF LICENSES, CERTIFICATES, REGISTRATIONS OR PERMITS BY LICENSING
4 BOARDS OR LICENSING COMMISSIONS BEGINNING ON OR AFTER 180 DAYS
5 AFTER THE EFFECTIVE DATE OF THIS SECTION.

6 SECTION 6. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

7 (1) THE ADDITION OF 63 PA.C.S. §§ 3112, 3112.1, 3113,
8 3114 AND 3115 SHALL TAKE EFFECT IN 180 DAYS.

9 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
10 IMMEDIATELY.